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Consideration of reports submitted by States parties under article 29, paragraph 1, of the Convention

Reports of States parties due in 2013

Armenia*

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Preamble

1. This report is submitted in accordance with article 29 of the Convention for the Protection of All Persons from Enforced Disappearance, which states that each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a report on the measures taken to give effect to its obligations under the Convention, within two years after the entry into force of the Convention for the State Party concerned.

2. The report on the fulfilment of the commitments of the Republic of Armenia undertaken under the Convention for the Protection of All Persons from Enforced Disappearance has been prepared by the Police of the Republic of Armenia for submitting it to the Committee on Enforced Disappearance through the Secretary-General of the United Nations. Particularly, the analysis of the criminal procedure practices of the Police of the Republic of Armenia has served as a ground for developing the report. The recommendations and information submitted by the National Security Service of the Republic of Armenia, Judicial Department of the Republic of Armenia, Prosecutor General's Office of the Republic of Armenia, Ministry of Finance of the Republic of Armenia, Ministry of Defence of the Republic of Armenia, Minister of Justice of the Republic of Armenia and Ministry of Foreign Affairs of the Republic of Armenia have been considered while preparing the report.

I. The general legal framework in the Republic of Armenia whereby enforced disappearance is forbidden

3. The Convention for the Protection of All Persons from Enforced Disappearance signed on 20 December 2006 in New York was ratified by the Republic of Armenia in 2010. The Convention entered into force for the Republic of Armenia on 23 February 2011.

4. The objective of the Convention is to prevent enforced disappearances and to fight against impunity of the crime of enforced disappearance.

5. The legislation of the Republic of Armenia is generally compatible with the commitments under the International Convention for the Protection of All Persons from Enforced Disappearance and ensures the implementation of those commitments and protection of individual rights.

6. Particularly, article 3 of the Constitution stipulates the following principles:

> "Article 3. The human being, his or her dignity, fundamental rights and freedoms are the highest values.
>
> The State shall ensure the protection of fundamental human and citizen's rights and freedoms, in conformity with the principles and norms of international law.
>
> The State shall be bound by fundamental human and citizen's rights and freedoms as directly applicable law."

7. Chapter 2 of the Constitution of the Republic of Armenia is fully dedicated to fundamental human and citizen's rights and freedoms. Particularly, article 16 of the Constitution stipulates the right to liberty and security of person and defines that: "A person may be deprived of liberty in cases and as prescribed by law".

8. It should be noted that the Criminal Code of the Republic of Armenia adopted by the National Assembly of the Republic of Armenia on 18 April 2003 provides for a liability for violations of human and citizen's constitutional rights and freedoms. Although enforced

disappearance is not defined as a separate type of crime in the Criminal Code of the Republic of Armenia, the code envisages several articles containing elements of that act (arts. 131, 133, 308, 309, 348, 392, etc.) which will be detailed in the report in the course of interpretation of separate articles of the Convention.

9. Article 9 of the Criminal Procedure Code of the Republic of Armenia stipulates one of the principles of the criminal procedure – respect for the rights, liberties and dignity of a person - and defines:

> "1. All bodies and persons participating in criminal proceedings are required to respect the rights, freedoms and dignity of a person.
>
> 2. Courts authorise temporary restriction of rights and freedoms of persons. Procedural coercive measures are imposed on them only when it is proved to be appropriate in compliance with due process requirements.
>
> 3. In the course of criminal proceedings no one may be subjected to degrading treatment and kept under humiliating conditions.
>
> 4. No one may be forced to participate in degrading procedural actions.
>
> 5. Everyone shall have the right to protect his rights and freedoms by all means not proscribed by law."

10. Article 11 of the Criminal Procedure Code of the Republic of Armenia stipulates the principle of immunity of a person:

> "1. Everyone shall have the right to personal liberty and immunity.
>
> 2. No one may be taken into and kept in custody on the grounds and in the manner other than provided for by this Code.
>
> 3. Imposing and keeping in remand detention, forcible placing of a person in medical or educational institution shall be authorised only by court order. A person may not be kept in custody for more than 72 hours unless a relevant warrant is issued by the court.
>
> 4. Every arrestee and remand prisoner shall be promptly informed of the grounds for the arrest or remand detention, as well as of the facts and legal qualification of the criminal offence they are suspected in or charged with.
>
> 5. A court, as well as an inquest body, an investigator and a prosecutor shall be obliged to promptly release any person unlawfully confined. The head of the administration of a detention shall not be authorised to receive a person to serve the remand detention without the appropriate court order and shall be obliged to promptly release any person whose detention period has expired.
>
> 6. Search and investigation of a person, as well as other procedural steps infringing the immunity shall be carried out in the cases and in the manner provided for by this Code.
>
> 7. In the course of criminal proceedings no one must be subjected to torture, unlawful physical or mental violence, including through the use of drugs, hunger, exhaustion, hypnosis, deprivation of medical aid, as well as to other cruel treatment. It shall be prohibited to extort testimonies from a suspect, an accused, a victim, a witness and other persons participating in criminal proceedings through violence, threat, deception, violation of their rights, and other unlawful actions.
>
> 8. It shall be prohibited to involve a person in investigative experiments causing long-term or physical torture, constituting danger to his or her health or of those around, or in taking other procedural steps.

> 9. In the course of criminal proceedings, the application of measures constituting danger to human life and health and environment shall be prohibited."

11. Article 29 of the Law of the Republic of Armenia "On custody of arrestees and remand prisoners" also aims to prevent enforced disappearance and relates to the admission of the arrestee to police holding facilities and the detainee to detention facilities. Particularly, the article defines the following:

> "The admission of the arrestees to police holding facilities, and admission of the detainees to detention facilities shall be performed by the administration of the given institution in accordance with the established in-house procedure.
>
> A person transported to the detention facility shall be placed in a quarantine unit for a period of up to seven days with the purpose of passing medical examination and getting acquainted with conditions of detention facility, where he or she is kept under conditions defined for detention. The procedure for keeping a detained person in quarantine unit shall be defined by internal regulations.
>
> A detained person transported to the detention facility shall be informed of his or her rights and responsibilities, internal regulations immediately upon being placed in the quarantine unit; a statement regarding this shall be attached to his or her personal file.
>
> An arrested person is registered in registers envisaged for that and individual records immediately upon being transported to the police holding facility – and a detained person – to the detention facility. A personal file shall be maintained for each arrested or detained person, in which years and dates of admission and release from custody or detention shall be included in a mandatory manner."

12. Article 6 of the Constitution of the Republic of Armenia provides for the following provisions: "The Constitution has supreme legal force, and its norms apply directly. International treaties shall enter into force only after being ratified or approved. International treaties are an integral part of the legal system of the Republic of Armenia. If ratified international treaties define norms other than those provided for by laws, such norms shall apply. International treaties contradicting the Constitution may not be ratified."

13. Article 5 of the Law of the Republic of Armenia "On international treaties" defines the ratio of international treaties and laws of the Republic of Armenia. Particularly, it states the following:

> "1. An international treaty of the Republic of Armenia having entered into force as prescribed by this Law, shall make an integral part of the legal system of the Republic of Armenia. The norms of an international treaty of the Republic of Armenia having entered into force shall be directly applicable in the territory of the Republic of Armenia.
>
> 2. If an international treaty ratified in the manner prescribed by this Law prescribes norms other than those provided for by laws of the Republic of Armenia, then the norms of the ratified international treaty shall apply.
>
> 3. Where an international treaty of the Republic of Armenia approved as prescribed by this Law prescribes norms other than those prescribed by regulatory decrees and executive orders of the President of the Republic of Armenia, Government decisions or agency regulatory legal acts, the norms of the approved international treaty shall apply."

14. International treaties constituting a part of the legal system of the Republic of Armenia, are unique in a sense, that their norms applies directly in the territory of the

Republic of Armenia, irrespective of whether the relationships mentioned in other legal acts are regulated or not.

15. The Republic of Armenia is responsible for strict fulfilment of the requirements laid down in the treaties ratified by itself.

16. Since its independence, the Republic of Armenia joined a number of international treaties in the sphere of human rights protection, particularly the Convention for the Protection of Human Rights and Fundamental Freedoms, European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Framework Convention for the Protection of National Minorities, Council of Europe Convention on Action against Trafficking in Human Beings, International Covenant on Civil and Political Rights, International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, etc. The ratification of the International Convention for the Protection of All Persons from Enforced Disappearance is one more step in the Republic of Armenia towards bringing the protection of human rights and fundamental freedoms into compliance with the international standards.

17. The Republic of Armenia has undertaken numerous commitments by ratifying a number of international instruments on human rights. It means, that the settlement of the human rights issues, creation of necessary conditions for the implementation of human rights and freedoms and their protection is the primary obligation of the Republic of Armenia.

18. Article 50 of the Law of the Republic of Armenia "On international treaties of the Republic of Armenia" states: "The international treaty of the Republic of Armenia having entered into force (signed) in the manner prescribed by this Law shall be subject to unreserved implementation. During the implementation of an international treaty of the Republic of Armenia, the Republic of Armenia shall refrain from actions that can contradict the objectives and subject-matter of that treaty."

19. Under article 44 of the Constitution of the Republic of Armenia, some restrictions of human and citizen's rights and freedoms are envisaged, which may also relate to the strict implementation of the Convention. Particularly, article 44 of the Republic of Armenia states: "Certain fundamental human and citizen's rights and freedoms – except for those referred to in articles 15, 17-22 and 42 of the Constitution – may be temporarily restricted, as prescribed by law, at the time of martial law or state of emergency, within the scope of international commitments assumed with respect to derogating from obligations in emergency situations." The right of personal freedom and privacy provided for in article 16 of the Constitution is not an exception. However, given the fact that the ban of enforced disappearance is an international commitment undertaken under the Convention, any deviation from the ban of enforced disappearance is not allowed either. Moreover, the Laws of the Republic of Armenia "On the legal regime of the state of emergency" and "On legal regime of martial law", which provides for the opportunity to impose temporary restrictions on some human rights and freedoms, do not provide for any restriction on freedom and privacy right of a person.

20. The implementation of the provisions of the Convention is ensured also by articles 16, 18 and 19 of the Constitution of the Republic of Armenia. Particularly, article 16 of the Constitution provides for the right to personal freedom and privacy of a person. In accordance with part 4 of the mentioned article, "everyone is entitled to recover damages in case he or she has been unlawfully deprived of freedom or subjected to search, on the grounds and by the procedure defined by law. Everyone shall have the right to appeal against the lawfulness of, and grounds for, his or her deprivation of liberty or search in a higher court instance."

21. The Constitution of the Republic of Armenia enshrines the following:

> "Article 18. Everyone shall – for the protection of his or her rights and freedoms – have the right to effective judicial remedies, as well as effective legal remedies before other state bodies.
>
> Everyone shall have the right to protect his or her rights and freedoms by all means not prohibited by law.
>
> Everyone shall have the right to receive – on the grounds and as prescribed by law – the assistance of the Human Rights Defender for the protection of his or her rights and freedoms..."

22. To prevent any possible abuses by the state, part 4 of the same article stipulates the following provision: "Everyone shall, in accordance with the international treaties of the Republic of Armenia, have the right to apply – with regard to the protection of his or her rights and freedoms – to international bodies for protection of human rights and freedoms."

23. Moreover, article 19 of the Constitution provides for the right of a person to fail trial:

> "Article 19. Everyone shall have the right to a public hearing of his or her case by an independent and impartial court within a reasonable time, in equal conditions, meeting all the demands of justice, for restoring his or her violated rights, as well as determining the grounds for the charge brought against him or her.
>
> Attendance of representatives of media and public may be excluded from all or part of the trial with a view to protecting the public morals, public order, state security, private life of participants of the judicial proceedings or the interests of justice."

24. The powers of the Constitutional Court of the Republic of Armenia are enshrined in article 100 of the Constitution of the Republic of Armenia, according to which prior to the ratification of any international treaty, in accordance with the established procedure it is determined whether it is compatible with the Constitution or not. Following the ratification of the international treaty, the relations pertaining to its implementation shall be regulated by Law of the Republic of Armenia "On international treaties of the Republic of Armenia". Particularly, according to article 52 of the mentioned law, the implementing authority of the international treaty of the Republic of Armenia is the authority; the relations within the scope of its jurisdiction are regulated under that agreement. In this case, the responsible authority is the Police of the Republic of Armenia.

II. Information required by articles 1 to 25 of the Convention

Article 1

25. In accordance with article 1 of the Convention:

> "1. No one shall be subjected to enforced disappearance.
>
> 2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance."

26. Article 1 of the Convention refers to comprehensive and undeviating prohibition of enforced disappearance. Thus, in the light of the commitments undertaken under the Convention or the protection of all persons from enforced disappearance, it is essential to have the concept "enforced disappearance" in the national law. The national legislation of

the Republic of Armenia does not provide for the enforced disappearance as a separate crime, but the Criminal Code of the Republic of Armenia includes a number of crimes containing elements of such action.

27. Moreover, article 16 of the Constitution of the Republic of Armenia provides for the legal grounds for depriving a person of liberty.

> "Everyone shall have the right to personal liberty and inviolability. A person may be deprived of freedom in the cases and manner prescribed by law. The law may provide for deprivation of liberty only in the following cases:
>
> (1) A person has been convicted by a competent court for committing a crime;
>
> (2) A person has failed to comply with a court order that has legally entered into force;
>
> (3) For the purpose of ensuring the performance of certain duties prescribed by law;
>
> (4) There is a reasonable suspicion of committal of a crime, or when it is necessary to prevent the committal of a crime by a person or his or her fleeing after committing it;
>
> (5) For the purpose of placing a minor under educational supervision or bringing before another competent authority;
>
> (6) For the purpose of preventing the spread of infectious diseases or social danger emanating from persons of unsound mind, alcoholics, drug addicts, or vagrants;
>
> (7) For the purpose of preventing unauthorised entry of a person into the Republic of Armenia, deporting him or her or extraditing to another state."

28. Since the act of depriving a person of liberty contained in the crime of enforced disappearance is not legal, consequently it is prohibited.

29. At the same time, according to article 43 of the Constitution of the Republic of Armenia, the right to freedom and privacy of a person may not be restricted for the state security in the democratic society, maintaining public order, prevention of crimes, public health and morality, protection of the constitutional rights and freedoms and good name of others. Whereas, in accordance with article 44 of the Constitution of the Republic of Armenia, it may temporarily restricted during martial law or state of emergency within the framework of the international commitments undertaken for deviation from the commitments during the state of emergency. However, taking into account the ban of enforced disappearance is the international commitment undertaken under the Convention, any deviation from the ban of enforced disappearance is also not allowed. It is also worth mentioning that the Laws of the Republic of Armenia "On the legal regime of the state of emergency" and "On the legal regime of martial law", which provides for the opportunity to impose temporary restriction on some rights and freedoms of a person, any restriction on the right of a person to freedom and privacy is not imposed.

Article 2

30. In accordance with article 2 of the Convention, "For the purposes of this Convention, "enforced disappearance" is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or

whereabouts of the disappeared person, which place such a person outside the protection of the law."

31. It is worth mentioning that the Criminal Code of the Republic of Armenia does not provide for "enforced disappearance" as a separate crime. However, the crime has some common elements with the crimes contained in chapters 17 and 33 of the Criminal Code of the Republic of Armenia.

32. According to the definition provided in the Convention, the crimes of enforced disappearance includes 3 binding elements (1) arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State; (2) refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person; (3) placing such a person outside the protection of the law. The absence of any such elements excludes the enforced disappearance.

33. The analogous crimes provided for in the legislation of the Republic of Armenia contain non all elements of the enforced disappearance. Thus, articles 131 and 133 of the Criminal Code of the Republic of Armenia relate to the abduction and illegal deprivation of liberty of a person by non state agents (private individuals or group of persons), which although contain the 2nd and 3rd elements of the crime, but the 1st element is missing; consequently they are not in complete conformity with the crime of enforced disappearance. In that case, the authorization or acquiescence of the State is not a binding condition, but the act may objectively contain also that feature.

34. Article 348 of the Criminal Code of the Republic of Armenia relates to illegal arrest, detention or holding under custody of a person by a state agent. In such case, the 1st elements of the enforced disappearance is in place, but while defining the mentioned act, the 2nd and 3rd elements of the enforced disappearance are not binding.

35. In the sense of the Convention, article 392 of the Criminal Code of the Republic of Armenia may be viewed as more compatible with the enforced disappearance, which provides for a liability for expulsion, illegally arrest, mass and regular execution without trial, kidnapping followed by disappearance, torture or cruel treatment of civilians, due to racial, national, ethnic identity, political views and religion.

36. In this case, all 3 elements of the enforced disappearance are in place; however it is worth mentioning that the act under the mentioned article will be defined as a criminal act, provided it has taken place on the grounds of racial, national, ethnic, political views and belief of the civilians.

Article 3

37. In accordance with article 3 of the Convention, "Each State Party shall take appropriate measures to investigate acts defined in article 2 committed by persons or groups of persons acting without the authorization, support or acquiescence of the State and to bring those responsible to justice."

38. Articles 131 and 133 of the Criminal Code of the Republic of Armenia relate to the abduction and illegal deprivation of liberty by non state agents (private individuals or group of persons). In that case, the authorization or acquiescence of the State is not a binding condition for defining the act.

39. Article 131 of the Criminal Code of the Republic of Armenia provides for a liability for fraud, the abuse of power or explicitly or implicitly kidnapping of a person through use of force, if the elements of crimes (taking as hostage) provided for in article 218 of the Code are missing. A criminal liability is also provided for illegal depriving a person of

liberty, which is not connected with the abduction (art. 133 of the Criminal Code of the Republic of Armenia).

40. Parts 2 and 3 of articles 131 and 133 stipulate that such elements of crime are the mentioned actions by a group of people with prior agreement or by an organised group.

41. The mentioned crimes are not completely compatible with the crime of enforced disappearance, since they may not be followed by the refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law. However, the above-mentioned element may be present and this does not change the definition of the act.

42. With regard to the requirement to take relevant measures for investigating the acts mentioned in article 2 of the Convention, it is necessary to mention article 2 of the Criminal Procedure Code of the Republic of Armenia, which enshrines the legislative issues of the criminal procedure of the Republic of Armenia. In particular, part 2 of the article defines the duty of bodies conducting criminal proceedings to undertake all the measures to ensure that, as a result of their activities:

(1) Any person who has committed an act outlawed by criminal codes is disclosed and subjected to liability in cases provided for by criminal statute and as prescribed by the Criminal Procedure Code;

(2) No innocent person is suspected in, charged with and convicted of committing an offence;

(3) No one is unlawfully or without necessity subjected to procedural coercive measures, punishment, other restrictions of rights and freedoms.

Articles 2 and 4

43. In accordance with article 4 of the Convention, "Each State Party shall take the necessary measures to ensure that enforced disappearance constitutes an offence under its criminal law."

44. In accordance with article 2 of the Convention, "Enforced disappearance is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law."

45. Though enforced disappearance is not defined by the Criminal Code of the Republic of Armenia as a separate type of crime, however the Code provides for a number of articles covering the elements of that act. In particular, kidnapping (art. 131), illegal deprivation of liberty (art. 133), abuse of official powers (art. 308), excess of official powers art. 309), unlawful arrest or detention (art. 348), crimes against the safety of humanity (art. 392) and other similar crimes are considered as criminally punishable acts.

46. Now efforts are underway for preparing a draft law on making amendments in the Criminal Code of the Republic of Armenia as a result of which "enforced disappearance" will be provided for in the Criminal Code of the Republic of Armenia as separate *corpus delicti*. These amendments are aimed at bringing the domestic legislation in line with the requirements of the Convention.

47. As to the similar *corpora delicti* listed above, their analysis is covered in the responses contained in the report on the implementation of articles 2, 3, and 5 of the Convention.

Article 5

48. In accordance with article 5 of the Convention, "The widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law and shall attract the consequences provided for under such applicable international law."

49. Article 392 of the Criminal Code of the Republic of Armenia defines the following:

"Article 392. Crimes against the safety of humanity

Expulsion, unlawful confinement, enslavement, application of mass death penalties on a regular basis, kidnapping followed by disappearance, torture or cruel actions, committed based on racial, national, ethnic background, political views and belief of the civilian population –

shall be punished by imprisonment for a term of ten to twenty years, or by life imprisonment."

50. The *corpus delicti* clearly defines the motives for commuting the act, that is discrimination and national, racial, religious hatred. An act will be qualified as crime under this article where it has been committed based on racial, national, ethnic background, political views and belief of the civilian population. It should be noted that the peculiarity of the crime concerned is that it is committed by a systematically organised policy, and may be widespread and committed regularly.

Article 6

51. In accordance with article 6 of the Convention:

"1. Each State Party shall take the necessary measures to hold criminally responsible at least:

(a) Any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance;

(b) A superior who:

(i) Knew, or consciously disregarded information which clearly indicated, tha. subordinates under his or her effective authority and control were committing or about to commit a crime of enforced disappearance;

(ii) Exercised effective responsibility for and control over activities which were concerned with the crime of enforced disappearance; and

(iii) Failed to take all necessary and reasonable measures within his or her power to prevent or repress the commission of an enforced disappearance or to submit the matter to the competent authorities for investigation and prosecution;

(c) Sub-paragraph (b) above is without prejudice to the higher standards of responsibility applicable under relevant international law to a military commander or to a person effectively acting as a military commander.

2. No order or instruction from any public authority, civilian, military or other, may be invoked to justify an offence of enforced disappearance."

52. Accomplices in enforced disappearance (inciter, organiser and abettor) are also subject to liability under the above mentioned articles of the Criminal Code of the Republic of Armenia, with reference to article 38 of the Criminal Code of the Republic of Armenia which defines the types of accomplices. Article 39 of the Criminal Code of the Republic of Armenia prescribes the liability of accomplices.

"Article 38. Types of accomplices

1. Organiser, inciter and abettor together with the perpetrator shall be deemed to be accomplices.

2. A perpetrator shall be deemed to be the person who has directly committed a criminal offence or has immediately participated in the committal thereof jointly with other persons (joint perpetrators), as well as has committed the criminal offence through the use of other persons who by virtue of law shall not be subject to criminal liability or have committed the criminal offence negligently.

3. An organiser shall be deemed to be the person who has organised or directed the committal of criminal offence, as well as has established an organised group or a criminal organisation or has directed them.

4. An inciter shall be deemed to be the person who has incited another person to commit a criminal offence through persuasion, financial incentive, threat or other means.

5. An abettor shall be deemed to be the person who has assisted in the committal of a crime through provision of advice, instructions, information or means, tools or elimination of obstacles, as well as the person who has initially promised to conceal the criminal, means or instruments of crime, traces of crime or items obtained from a crime, as well as the person who has initially promised to acquire or realise such items.

Article 39. Liability of accomplices

1. Joint perpetrators shall be subject to liability for a crime under the same Article of the Special Part of this Code.

2. An organiser, inciter and abettor shall be subject to liability under the Article that envisages the criminal offence committed referring to Article 38 of this Code, except for cases when they were joint perpetrators of a crime simultaneously.

3. A person not considered as a special subject of the crime, referred to in the Article of the Special Part of this Code, who has participated in the committal of a criminal offence provided for by that Article, may be subject to liability for the crime concerned only as an organiser, inciter or abettor.

4. In the event the perpetrator does not complete the crime for circumstances beyond his or her control, other accomplices shall be subject to liability for the preparation of a crime or complicity in the attempted crime.

5. Where an organiser, inciter or abettor fail in accomplishing their actions for circumstances beyond their control, the liability of those persons shall ensue for the preparation of relevant crime.

6 Accomplices shall be subject to liability only for those aggravating circumstances of the crime of which they realised.

7. When subjecting accomplices to liability the nature and level of participation in crime of each thereof shall be taken into account."

53. In cases provided for in articles 34 and 35 of the Criminal Code of the Republic of Armenia a person bears liability also for attempted crime and preparation of crime.

54. Besides, article 36(3) of the Criminal Code of the Republic of Armenia defines: "An organiser, inciter or abettor of a crime shall not be subject to criminal liability in the event of voluntary renunciation of criminal purpose where he or she, by informing state authorities or through other measures undertaken, has prevented the perpetrator from completing the crime."

55. A superior, who has known or consciously disregarded information clearly indicating that subordinates under his or her direct authority and control have committed or have been about to commit a crime, is subject to liability for concealment of crime (art. 334 of the Criminal Code of the Republic of Armenia) or for failure to report crime (art. 335 of the Criminal Code of the Republic of Armenia).

56. Any order or instruction from any public authority, civilian, military servant or other person, may be invoked to justify a crime. Article 47(2) of the Criminal Code of the Republic of Armenia prescribes that a person having committed an intentional crime upon obvious illegal order or executive order is subject to liability on general grounds.

> "Article 47. Execution of order or executive order
>
> 1. Causing harm to the interests protected under the criminal statute by a person who has acted in pursuance of an order or executive order binding thereon — issued under the prescribed procedure shall not be deemed to be a crime. A person having issued illegal order or executive order shall be subject to liability for causing such harm.
>
> 2. A person having committed an intentional crime upon obvious illegal order or executive order shall be subject to liability on general grounds.
>
> 3. Non-execution of an obvious illegal order or executive order shall exclude criminal liability."

57. According to the mentioned article a person bears liability for the committal of an intentional crime upon an order or executive order only in the case when the order or the executive order have been obviously illegal; otherwise, a person acting within the limits of an order or executive order binding upon him or her is released from criminal liability.

58 It should be noted also that criminal law comprises the principle of personal liability and the principle of inevitability of liability which are prescribed by article 7 and article 8 of the Criminal Code of the Republic of Armenia.

> "Article 7. Principle of inevitability of liability
>
> 1. Each person having committed a criminal offence shall be subject to punishment or other criminal–law enforcement provided for in the Criminal Code of the Republic of Armenia.
>
> 2. Release from criminal liability and punishment shall be available only in case of grounds and conditions provided for in the Criminal Code of the Republic of Armenia.
>
> Article 8. Principle of personal liability
>
> A person shall be subject to criminal liability only for the criminal offence committed by himself or herself."

59. Refusal to execute an obvious illegal order or administrative order of a superior by a subordinate shall exempt the subordinate from criminal liability.

Article 7

60. In accordance with article 7 of the Convention:

"1. Each State Party shall make the offence of enforced disappearance punishable by appropriate penalties which take into account its extreme seriousness.

2. Each State Party may establish:

(a) Mitigating circumstances, in particular for persons who, having been implicated in the commission of an enforced disappearance, effectively contribute to the return of the disappeared person alive or make it possible to clarify cases of enforced disappearance or to identify the perpetrators of an enforced disappearance;

(b) Without prejudice to other criminal procedures, aggravating circumstances, in particular in the event of the death of the disappeared person or the commission of an enforced disappearance in respect of pregnant women, minors, persons with disabilities or other particularly vulnerable persons."

61. Crimes provided for in articles of the Criminal Code of the Republic of Armenia as criminal offences containing elements of enforced disappearance are qualified as grave (article 131(2), article 133(3), article 308(2), article 309(2), article 348) and particularly grave (article 392) crimes. The maximum amount of punishment is provided for in article 392 of the Criminal Code of the Republic of Armenia, that is imprisonment for a term of fourteen to twenty years or life imprisonment.

62. In particular, the following types and amounts of punishment are imposed for the mentioned crimes:

"Article 131. Kidnapping

1. Covert or overt kidnapping by deception, abuse of confidence, use or threat to use violence, where there are no elements of the crime provided for in Article 218 of this Code – shall be punished by imprisonment for a term of two to five years.

2. The same act committed –

(1) By a group of persons acting in conspiracy;

(2) By use or threat of use of violence dangerous to life or health;

(3) By use of weapon or objects used as a weapon;

(4) Against a minor;

(5) Against an obviously pregnant woman;

(6) Against two or more persons;

(7) With mercenary motives – shall be punished by imprisonment for a term of four to eight years.

3. The actions provided for in part 1 or 2 of this Article, which:

(1) Have been committed by an organised group;

(2) Have negligently caused the death of the victim or other grave consequences – shall be punished by imprisonment for a term of seven to ten years.

Article 133. Illegal deprivation of liberty

1. Illegally depriving a person of liberty, which is not related to kidnapping – shall be punished by a fine in the amount of one-hundred-fold to two-hundred-and-

fifty-fold of the minimum salary, or by detention for a term of one to three months, or by imprisonment for a maximum term of two years.

2. The same act committed:

(1) By a group of persons acting in conspiracy;

(2) By use or threat of use of violence dangerous to life or health;

(3) Use of weapon or objects used as a weapon;

(4) Against a minor;

(5) Against an obviously pregnant woman;

(6) Against two or more persons;

(7) With mercenary motives – shall be punished by imprisonment for a term of three to five years.

3. The actions provided for in part 1 or 2 of this Article, which:

(1) Have been committed by an organised group;

(2) Have negligently caused the death of the victim or other grave consequences – shall be punished by imprisonment for a term of four to eight years.

Article 308. Abuse of official powers

1. Use of official position against the interests of service or failure to fulfil official duties by an official for mercenary, other personal or collective interests, which has caused essential damage to the rights and lawful interests of persons, organizations, and to the lawful interests of the public or the State (in case of property damage – the amount or the value thereof exceeding three-hundred-fold of the minimum salary defined at the time of crime) – shall be punished by a fine in the amount of the two-hundred-fold to three-hundred-fold of the minimum salary or by deprivation of the right to hold certain positions or to engage in certain activities for a term of maximum five years or by detention for a term of two to three months or by imprisonment for a term of maximum four years.

2. The same act that has negligently caused grave consequences – shall be punished by imprisonment for a term of two to six years with deprivation of the right to hold certain positions or to engage in certain activities for a maximum term of three years.

Article 309. Excess of official powers

1. Carrying out actions intentionally by an official which are obviously beyond the scope of his or her powers and have caused essential damage to the rights and lawful interests of persons, organizations, to the lawful interests of the public and the State (in case of property damage – the amount or the value thereof exceeding the five-hundred-fold of the minimum salary defined at the time of crime) – shall be punished by a fine in the amount of the three-hundred-fold to five-hundred-fold of the minimum salary or by deprivation of the right to hold certain positions or to engage in certain activities for a term of maximum five years or by detention for a term of two to three months or by imprisonment for a term of maximum four years.

2. The same act accompanied with use of violence, weapons, or special means – shall be punished by imprisonment for a term of two to six years with deprivation of the right to hold certain positions or to engage in certain activities for a maximum term of three years.

3. The same act that has negligently caused grave consequences – shall be punished by imprisonment for a term of six to ten years with deprivation of the right to hold certain positions or to engage in certain activities for a maximum term of three years.

Article 348. Unlawful arrest or detention

1. Obviously unlawful arrest – shall be punished by detention for a term of two to three months or by imprisonment for a maximum term of two years with deprivation of the right to hold certain positions or to engage in certain activities for a maximum term of three years.

2. Obviously unlawful detention or obviously unlawful holding in detention – shall be punished by imprisonment for a maximum term of four years with deprivation of the right to hold certain positions or to engage in certain activities for a maximum term of three years.

3. The acts provided for in part 1 or 2 of this Article, which have negligently caused grave consequences – shall be punished by imprisonment for a term of three to eight years with deprivation of the right to hold certain positions or to engage in certain activities for a maximum term of three years.

Article 392. Crimes against the safety of humanity

Expulsion, unlawful confinement, enslavement, application of mass death penalties on a regular basis, kidnapping followed by disappearance, torture or cruel actions, committed based on racial, national, ethnic background, political views and belief of the civilian population – shall be punished by imprisonment for a term of ten to twenty years or by life imprisonment."

63. Article 62 of the Criminal Code of the Republic of Armenia provides for the circumstances mitigating liability and punishment. Point 9 of part 1 of the mentioned article refers, as mitigating circumstance, to surrender by acknowledgement of guilt, assistance in detection of crime, in unmasking of other participants of crime, in searching the property obtained by crime.

64. Article 63 of the Criminal Code of the Republic of Armenia provides for the circumstances aggravating liability and punishment. Point 8 of part 1 of the mentioned Article refers, as aggravating circumstance, to committal of a criminal offence against a woman obviously pregnant for the criminal, as well as an infant, other unprotected or helpless person or a person dependent from the criminal.

Article 8

65. In accordance with article 8 of the Convention:

"Without prejudice to article 5,

1. A State Party which applies a statute of limitations in respect of enforced disappearance shall take the necessary measures to ensure that the term of limitation for criminal proceedings:

(a) Is of long duration and is proportionate to the extreme seriousness of this offence;

(b) Commences from the moment when the offence of enforced disappearance ceases, taking into account its continuous nature.

2. Each State Party shall guarantee the right of victims of enforced disappearance to an effective remedy during the term of limitation."

66. Article 75 of the Criminal Code of the Republic of Armenia defines the conditions for releasing from criminal liability due to the expiration of the statute of limitations based on gravity of crimes.

67. In particular, according to article 75, a person shall be released from criminal liability where the following terms have elapsed from the day when the criminal offence is regarded as completed:

(1) Two years from the day when a criminal offence of minor gravity is regarded as completed;

(2) Five years from the day when a criminal offence of medium gravity is regarded as completed;

(3) Ten years from the day when a grave criminal offence is regarded as completed;

(4) Fifteen years from the day when a particularly grave criminal offence is regarded as completed.

68. Pursuant to the Criminal Code of the Republic of Armenia, criminal offences containing elements of enforced disappearance are considered as grave or particularly grave crimes, thus statutes of limitations for a term of ten and fifteen years respectively are defined for such.

69. Meanwhile, it should be noted that the running of the statute of limitations shall be suspended where a person evades investigation or trial. In this case, the running of the statute of limitations shall resume from the moment of arresting the person or his or her surrender by acknowledging guilt. Moreover, a person may not be subjected to criminal liability, where ten years have elapsed from the day when a criminal offence of minor or medium gravity is regarded as completed, and twenty years from the day when a grave or particularly grave criminal offence is regarded as completed, and the running of the statute of limitations has not been interrupted by a new crime (art. 75(4) of the Criminal Code of the Republic of Armenia).

70. According to the same article, in case of a continuous crime, the statute of limitations shall be calculated from the moment of termination of the act, whereas in case of a continuing crime – from the moment of committing the last act.

71. The issue of application of the statute of limitations with regard to a person who has committed a criminal offence punishable by life imprisonment, shall be settled by the court (for example, with regard to a person having committed the criminal offence provided for in article 392 of the Criminal Code of the Republic of Armenia). In this case the court shall have the right to take a decision on not releasing a person from criminal liability due to the expiry of the statute of limitations.

72. The Criminal Code of the Republic of Armenia, in addition to providing an exhaustive list of those crimes against peace and humanity where no statute of limitations are applied with regard to persons having committed such crimes (as provided for in articles 384, 386 to 391, 393 to 397), prescribes also the following provision: "No statute of limitations shall be applied also with regard to persons having committed crimes provided for in international treaties of the Republic of Armenia, where a prohibition of application of a statute of limitations is laid down in those treaties."

Article 9

73. In accordance with article 9 of the Convention:

> "1. Each State Party shall take the necessary measures to establish its competence to exercise jurisdiction over the offence of enforced disappearance:
>
> (a) When the offence is committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;
>
> (b) When the alleged offender is one of its nationals;
>
> (c) When the disappeared person is one of its nationals and the State Party considers it appropriate.
>
> 2. Each State Party shall likewise take such measures as may be necessary to establish its competence to exercise jurisdiction over the offence of enforced disappearance when the alleged offender is present in any territory under its jurisdiction, unless it extradites or surrenders him or her to another State in accordance with its international obligations or surrenders him or her to an international criminal tribunal whose jurisdiction it has recognized.
>
> 3. This Convention does not exclude any additional criminal jurisdiction exercised in accordance with national law."

74. Pursuant to article 14(1) of the Criminal Code of the Republic of Armenia, a person having committed a criminal offence within the territory of the Republic of Armenia shall be subject to liability under the Criminal Code of the Republic of Armenia. Part 3 of the same article defines that the liability of a person that commits a criminal offence within the territory of the Republic of Armenia and other States shall ensue under the Criminal Code of the Republic of Armenia where that person has been brought to criminal liability within the territory of the Republic of Armenia and unless otherwise provided for by international treaties of the Republic of Armenia.

75. In accordance with article 14(4) of the Criminal Code of the Republic of Armenia, "A person having committed a criminal offence on board the ship under the flag of the Republic of Armenia or bearing distinguishing emblem of the Republic of Armenia or on board the flying aircraft or other air device – irrespective of its location – shall be subject to criminal liability under the Criminal Code of the Republic of Armenia unless otherwise provided for by international treaties of the Republic of Armenia. A person having committed a criminal offence on board the military ship or aircraft of the Republic of Armenia – irrespective of its location – shall be also subject to liability under the Criminal Code of the Republic of Armenia."

76. The Criminal Code of the Republic of Armenia defines also the operation of criminal statutes with respect to persons having committed criminal offence outside the territory of the Republic of Armenia. In particular, according to article 15(1) of the Criminal Code of the Republic of Armenia, citizens of the Republic of Armenia and stateless persons permanently residing in the Republic of Armenia, having committed a criminal offence outside the territory of the Republic of Armenia, shall be subject to criminal liability under the Criminal Code of the Republic of Armenia where the act committed by them is recognised as a crime under the legislation of the State where the crime was committed and where they were not sentenced in another State.

77. In addition, part 3 of the same article defines the following:

> "3. Foreign nationals and stateless persons not permanently residing in the Republic of Armenia, having committed a criminal offence outside the territory of

the Republic of Armenia, shall be subject to criminal liability under the Criminal Code of the Republic of Armenia where they have committed:

(1) Crimes which are provided for by international treaties of the Republic of Armenia;

(2) Grave or particularly grave crimes which are against the interests of the Republic of Armenia or rights and freedoms of citizens of the Republic of Armenia."

78. Chapter 54 of the Criminal Procedure Code of the Republic of Armenia regulates legal assistance in criminal matters in accordance with international treaties the individual articles of which define, in particular, the procedure for provision of legal assistance in criminal matters in inter-state relations; bodies responsible for communication; making enquiries provided for by more than one international treaty; refusal to make enquiries; extradition of criminals to foreign states; the procedure for arrest, as well as temporary detention of persons having committed crimes outside the territory of the Republic of Armenia; the procedure for detention for the purpose of extradition; extradition of criminals to the Republic of Armenia by a foreign state, etc.

79. Armenia has signed agreements on mutual assistance in criminal matters with Lithuania, Greece, United Arab Emirates, Bulgaria, Egypt, Iran, Romania, Syria and Georgia, and in case of a request for extradition submitted by these states any arrested person is subject to extradition.

80. Chapter 54.1 of the same Code regulates legal assistance in criminal matters in the absence of international treaties.

Article 10

81. In accordance with article 10 of the Convention:

"1. Upon being satisfied, after an examination of the information available to it, that the circumstances so warrant, any State Party in whose territory a person suspected of having committed an offence of enforced disappearance is present shall take him or her into custody or take such other legal measures as are necessary to ensure his or her presence. The custody and other legal measures shall be as provided for in the law of that State Party but may be maintained only for such time as is necessary to ensure the person's presence at criminal, surrender or extradition proceedings.

2. A State Party which has taken the measures referred to in paragraph 1 of this article shall immediately carry out a preliminary inquiry or investigations to establish the facts. It shall notify the States Parties referred to in article 9, paragraph 1, of the measures it has taken in pursuance of paragraph 1 of this article, including detention and the circumstances warranting detention, and of the findings of its preliminary inquiry or its investigations, indicating whether it intends to exercise its jurisdiction.

3. Any person in custody pursuant to paragraph 1 of this article may communicate immediately with the nearest appropriate representative of the State of which he or she is a national, or, if he or she is a stateless person, with the representative of the State where he or she usually resides."

82. Article 492(2) of the Criminal Procedure Code of the Republic of Armenia defines that a person may be arrested in the manner prescribed by the Code without a motion of the competent authority of the foreign state or a request for extradition, when there are grounds

provided for by the Code to suspect that he or she has committed a crime in the territory of the foreign state with which the Republic of Armenia has an arrangement about provision of legal assistance in criminal matters based on the principle of reciprocity. When the request for extradition is filed by the competent authority of that state the arrested person shall be extradited.

83. A person arrested shall be released, unless a request for his or her extradition or, prior to filing the request, a motion on detention is filed by the competent authority of the respective foreign state as of the moment of expiration of the period for arrest defined by the Code (art. 492(5) of the Criminal Procedure Code of the Republic of Armenia).

84. According to part 4 of the same article, the competent authority of the foreign state shall be promptly informed about application of a measure of restraint against a person detained or arrested.

85. According to article 63(2)(9) of the Criminal Procedure Code of the Republic of Armenia, in case of taking a foreign national or a stateless person under custody, the body conducting criminal proceedings shall, through diplomatic channels within 24 hours, inform of the place and grounds for holding him or her under custody to the state of citizenship, and where he or she is stateless, to the state of his or her permanent residence, and where necessary, also to another state concerned. Where a foreign national or a stateless person taken under custody is entitled – by international treaties of the Republic of Armenia – to contact with the relevant representative of his or her state of citizenship or of the state of his or her permanent residence respectively or to a visit by the respective representative, the request by the person taken under custody to exercise that right shall be satisfied.

86. Communication and contact with nationals of the sending State is regulated by the Vienna Convention of 24 April 1963 which defines the essential guarantees according to which consular officers have the right to visit a person arrested or detained by the receiving State, to converse and correspond with him or her, to arrange for his or her legal representation, etc.

Article 11

87. In accordance with article 11 of the Convention:

> "1. The State Party in the territory under whose jurisdiction a person alleged to have committed an offence of enforced disappearance is found shall, if it does not extradite that person or surrender him or her to another State in accordance with its international obligations or surrender him or her to an international criminal tribunal whose jurisdiction it has recognized, submit the case to its competent authorities for the purpose of prosecution.
>
> 2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State Party. In the cases referred to in article 9, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 9, paragraph 1.
>
> 3. Any person against whom proceedings are brought in connection with an offence of enforced disappearance shall be guaranteed fair treatment at all stages of the proceedings. Any person tried for an offence of enforced disappearance shall benefit from a fair trial before a competent, independent and impartial court or tribunal established by law."

88. Article 498(1) of the Criminal Code of the Republic of Armenia defines that the prosecutor, the court of the Republic of Armenia shall, upon the request made under the prescribed procedure by the competent authority of a foreign state, carry out criminal prosecution against citizens of the Republic of Armenia or stateless persons, whose extradition has been refused and who are suspected in having committed a criminal offence in the territory of the requesting foreign state.

89. Meanwhile, according to article 15(1) of the Criminal Code of the Republic of Armenia, foreign nationals and stateless persons not permanently residing in the Republic of Armenia, having committed a criminal offence outside the territory of the Republic of Armenia, shall be subject to criminal liability under the Criminal Code of the Republic of Armenia where they have committed:

(1) Crimes which are provided for by international treaties of the Republic of Armenia;

(2) Such grave or particularly grave crimes which are against the interests of the Republic of Armenia or rights and freedoms of citizens of the Republic of Armenia.

90. According to article 44 of the Criminal Procedure Code of the Republic of Armenia the courts of first instance shall have jurisdiction over all criminal cases, and thus over cases concerning criminal offences containing elements of enforced disappearance.

91. Investigative jurisdiction over cases during the period preliminary investigation is established by article 190 of the Criminal Procedure Code of the Republic of Armenia. This article defines as to which bodies carry out preliminary investigation of cases on crimes provided for by certain articles. For example, preliminary investigation of cases on crimes provided for by article 392 of the Criminal Code of the Republic of Armenia (crimes against the safety of humanity) is conducted by investigators of the National Security Service of the Republic of Armenia; preliminary inquiry of cases on crimes provided for by article 131 (kidnapping), article 133 (illegal deprivation of liberty), article 308 (abuse of official powers) and other articles of the Criminal Code of the Republic of Armenia is conducted by investigators of the Police of the Republic of Armenia.

92. When referring to bodies having the right to carry out investigation, reference should be made to article 56 of the Criminal Procedure Code of the Republic of Armenia, according to which, investigation into the above mentioned crimes may be carried out not only by the Police of the Republic of Armenia and the National Security Service of the Republic of Armenia, but also by commanders of military units, military formations and heads of military institutions on cases regarding acts which have been committed within the territory of a military unit or which are attributed to military servants undergoing fixed-term military service.

93. With regard to guaranteeing fair treatment at all stages of court proceedings, referred to in article 11 of the Convention, reference should be made to the principles of the Criminal Procedure Code of the Republic of Armenia which include fair trial of cases (art. 17) prescribing that everyone has the right to have the criminal case relating to own interests be examined in compliance with all the requirements of fairness by an independent and impartial court and within reasonable period of time. According to the same article the body conducting criminal prosecution is obliged to take all the measures provided for by the Criminal Procedure Code to ensure thorough, complete and impartial examination of the circumstances of a case, to disclose circumstances both substantiating the guilt and acquitting the suspect and the accused, as well as mitigating and aggravating their liability.

94. The Criminal Procedure Code of the Republic of Armenia enshrines the equality of everyone before law and the court prohibiting discrimination in any form.

95. Article 10 of the Criminal Procedure Code of the Republic of Armenia prescribes the right to receive legal aid. According to the mentioned article, everyone shall have the right to receive legal aid as provided for by the Criminal Procedure Code. Where the suspect, the accused expresses such intention or where the interest of justice so requires, as well as in cases deemed mandatory by the Criminal Procedure Code and the international treaties of the Republic of Armenia, the body conducting criminal proceedings is obliged to ensure their right to receive legal aid. The aim of ensuring the exercise of the right to receive legal aid is pursued also in article 69 of the Code which provides for the cases when the participation of a counsel is mandatory, including when such intention has been expressed by the suspect or the accused.

96. Article 18 of the Code provides for the presumption of innocence, that is, any person suspected in or charged with a crime is presumed innocent, until proven guilty, as prescribed by the Criminal Procedure Code, by a court judgement having entered into legal force.

97. The Criminal Procedure Code prescribes also the principles of independent evaluation of evidence (art. 25 of the Criminal Procedure Code of the Republic of Armenia), according to which, in criminal proceedings no evidence has the effect of previously established evidence, and the judge, as well as the investigation body, the investigator, the prosecutor must not have a prejudiced approach to evidence, must not give more or less significance to any part of them versus the others prior to the examination thereof under proper legal procedure.

Article 12

98. According to article 12 of the Convention:

> "1. Each State Party shall ensure that any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to the competent authorities, which shall examine the allegation promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation. Appropriate steps shall be taken, where necessary, to ensure that the complainant, witnesses, relatives of the disappeared person and their defence counsel, as well as persons participating in the investigation, are protected against all ill-treatment or intimidation as a consequence of the complaint or any evidence given.
>
> 2. Where there are reasonable grounds for believing that a person has been subjected to enforced disappearance, the authorities referred to in paragraph 1 of this article shall undertake an investigation, even if there has been no formal complaint.
>
> 3. Each State Party shall ensure that the authorities referred to in paragraph 1 of this article:
>
> (a) Have the necessary powers and resources to conduct the investigation effectively, including access to the documentation and other information relevant to their investigation;
>
> (b) Have access, if necessary with the prior authorization of a judicial authority, which shall rule promptly on the matter, to any place of detention or any other place where there are reasonable grounds to believe that the disappeared person may be present.
>
> 4. Each State Party shall take the necessary measures to prevent and sanction acts that hinder the conduct of an investigation. It shall ensure in particular that persons suspected of having committed an offence of enforced disappearance are not

in a position to influence the progress of an investigation by means of pressure or acts of intimidation or reprisal aimed at the complainant, witnesses, relatives of the disappeared person or their defence counsel, or at persons participating in the investigation."

99. Article 55 of the Criminal Procedure Code of the Republic of Armenia provides for the powers of an investigator, in particular, paragraph 3 of the mentioned article defines that after accepting the case for proceedings the investigator, for a thorough, complete and impartial investigation of the case, is authorised to independently guide the investigation, adopt necessary decisions, take investigative and other procedural actions in accordance with the provisions of this Code, except for cases when the criminal procedure statute provides for obtaining an authorisation from the court. The investigator shall bear responsibility for lawful and timely implementation of investigative and other procedural actions. Powers of the investigator are listed in part 4 of the same article.

100. Article 57 of the Code defines the powers of the investigation body, in particular part 2 of the mentioned article defines that the investigation body undertakes relevant operational intelligence and criminal-procedural measures to disclose crimes and the persons having committed them, to prevent and preclude a crime; before instituting a criminal case carries out screening of the scene of the incident based on materials under preparation, takes samples for analysis and assign expert examination; immediately informs the prosecutor and the investigator about the detected crime and the initiated investigation into the case; after institution of the criminal case – for the purpose of detecting the perpetrators of crime, detecting and fixing the traces of crime – conducts immediate investigative actions, that is screening, search, surveillance over correspondence, postal, telegram and other communications, wire-tapping, seizure, examination, arrest and interrogation of a suspect, interrogation of victims and witnesses, confrontation, assigns expert examination; transfers the case to the investigator within ten days after institution of the criminal case, and immediately – after detecting the perpetrator or completing immediate investigative actions, as well as after involvement of the investigator, etc.

101. Chapter 12 of the Criminal Procedure Code relating to protection of persons participating in criminal proceedings has been significantly amended by Law HO-91-N adopted on 25 May 2006 by the National Assembly of the Republic of Armenia. It has comprehensively regulated the grounds for the protection of persons participating in criminal proceedings, the measures of defence, rights and duties of the protected person, interrogation of the protected person in the court, the grounds and procedure for the termination of measures of protection.

102. Thus, article 98(1) of the Criminal Procedure Code of the Republic of Armenia defines that each person has the right to protection who, participating in criminal proceedings, may provide information essential for the disclosure of crime and detection of its perpetrator, and which as a consequence may endanger his or her life, health, property, rights and legal interests and those of his or her family member, close relative or next of kin. Part 3 of the same article defines that when the body conducting criminal proceeding reveals, that the protected person needs protection, it shall take a decision, upon the written request of that person or upon its initiative, on taking a protective measure that shall be subject to immediate execution.

103. According to article 33(2) of the Criminal Procedure Code of the Republic of Armenia, cases on crimes provided for by article 183 of the Code are considered as cases of private prosecutions, whereon criminal prosecution may be conducted in case of availability of a claim by the applicant, and which is subject to termination upon his or her conciliation with the suspect or accused or defendant. Conciliation shall be allowed before the court retires to the deliberation room for deliver the judgement. According to the above-mentioned article 183, cases on crimes provided for in articles 131, 133, 308, 309, 348, 392

of the Criminal Code of the Republic of Armenia are not classified as cases of private prosecution.

104. Deviations from the procedure provided for in the first part of this article may be defined by international treaties of the Republic of Armenia.

105. Article 176 of the Criminal Procedure Code of the Republic of Armenia defines the reasons for instituting a criminal case:

"Article 176. Reasons for instituting a criminal case

Reasons for instituting a criminal case are the following:

(1) Reports of natural and legal persons about crimes, addressed to the investigation body, investigator, prosecutor;

(2) Media reports about crimes;

(3 Disclosure – by the investigation body, investigator, prosecutor, court, judge while exercising their powers – of information about a crime, material traces and consequences of crime."

Article 13

106. In accordance with article 13 of the Convention:

"1. For the purposes of extradition between States Parties, the offence of enforced disappearance shall not be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition based on such an offence may not be refused on these grounds alone.

2. The offence of enforced disappearance shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties before the entry into force of this Convention.

3. States Parties undertake to include the offence of enforced disappearance as an extraditable offence in any extradition treaty subsequently to be concluded between them.

4. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the necessary legal basis for extradition in respect of the offence of enforced disappearance.

5. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offence of enforced disappearance as an extraditable offence between themselves.

6. Extradition shall, in all cases, be subject to the conditions provided for by the law of the requested State Party or by applicable extradition treaties, including, in particular, conditions relating to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition or make it subject to certain conditions.

7. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin, political

opinions or membership of a particular social group, or that compliance with the request would cause harm to that person for any one of these reasons."

107. Article 392 of the Criminal Code of the Republic of Armenia envisages criminal liability for expulsion, illegal detention, enslavement, imposition of mass and regular death penalties without trial; kidnapping people that entails their disappearance, torture or cruel treatment, which are committed on the grounds of racial, national and ethnic belonging, political views and belief of the civilian population. That is, the mentioned crime can also be committed based on political motives. The committal of crimes containing elements of enforced disappearance provided for by other articles of the Code shall not be linked to political views of the person.

108. Chapter 54 of the Criminal Procedure Code of the Republic of Armenia defines legal assistance in criminal matters in accordance with international treaties. The mentioned Chapter defines the procedure for showing legal assistance in criminal matters in interstate relations, the procedure for extraditing persons having committed a crime to the foreign state, the procedure for detaining a person for extradition, the authorities with the competence to take a decision on permission of extradition or on denial of extradition and the procedure for appealing that decision, etc.

Article 478. Extradition of persons having committed a crime to foreign states

1. Nationals of a foreign state who have committed a crime in the territory of the Republic of Armenia, as well as stateless persons who have a permanent place of residence in the territory of a foreign state, may be extradited to the foreign state concerned in cases provided for by international treaty in force to which that state and the Republic of Armenia are parties, for the purpose of initiating criminal proceeding against them in the corresponding foreign state or proceeding in the foreign state concerned with the proceeding initiated in the territory of the Republic of Armenia in accordance with this Code.

All documents and other materials concerning the crime committed by the extradited person available in proceeding of courts, prosecutors, investigators, inquest bodies of the Republic of Armenia shall also be transferred to the competent authorities of the foreign state concerned in the manner prescribed by corresponding international treaty.

When the procedure for transfer of documents and other materials is not envisaged or prescribed by international treaty, the transfer thereof may be carried out in accordance with the arrangement reached between the central authorities of the Republic of Armenia and those of the foreign state or between the court, prosecutor, investigator, inquest body responsible for direct communication and the competent authority of the foreign state.

One copy of each document transferred shall be kept with the court, prosecutor, investigator, inquest body of the Republic of Armenia which has prepared or provided the documents.

2. Extradition of persons provided for by part 1 of this Article for the purposes envisaged by that part may take place within the period between committal of the criminal act by those persons in the territory of the Republic of Armenia or initiation of a criminal proceeding in respect of it and delivery of judgement against the person concerned or within another period provided for by corresponding international treaty of the Republic of Armenia.

109. Legal assistance in criminal matters in the absence of international treaties is defined by Chapter 54.1 of the Code.

110. The grounds for rejecting extradition are defined by article 488 of the Criminal Procedure Code of the Republic of Armenia, particularly point 2 of part 2 of the mentioned article, which defines that the fulfilment of the request for extradition of a person may be rejected, if the person for whom extradition is requested is persecuted based on political, racial or religious motives.

111. The responsible body for extradition on the part of the Republic of Armenia shall be the Ministry of Justice of the Republic of Armenia.

Article 14

112. In accordance with article 14 of the Convention:

> "1. States Parties shall afford one another the greatest measure of mutual legal assistance in connection with criminal proceedings brought in respect of an offence of enforced disappearance, including the supply of all evidence at their disposal that is necessary for the proceedings.
>
> 2. Such mutual legal assistance shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable treaties on mutual legal assistance, including, in particular, the conditions in relation to the grounds upon which the requested State Party may refuse to grant mutual legal assistance or may make it subject to conditions."

113. Chapter 54.2 of the Criminal Procedure Code of the Republic of Armenia regulates legal assistance relations with international bodies. The ground for communicating with international bodies, as well as the procedure for communication with international bodies and showing legal assistance in criminal matters are particularly defined.

114. Chapter 54 of the Criminal Procedure Code of the Republic of Armenia defines the terms and conditions for legal assistance in criminal matters in accordance with international treaties.

115. Article 475 of the mentioned Code defines the implementing bodies for communication on legal assistance matters.

> 1. Communication for showing legal assistance in criminal matters by international treaties of the Republic of Armenia shall be carried out:
>
> (a) Through the General Prosecutor's Office of the Republic of Armenia with regard to execution of enquiries concerning the conduct of procedural steps related to cases pending in pre-trial proceeding;
>
> (b) Through the Ministry of Justice of the Republic of Armenia with regard to execution of enquiries concerning the conduct of procedural steps related to cases pending in court proceeding, including execution of judgements.
>
> (c) When provided for by international treaties of the Republic of Armenia, communication may also be carried out through diplomatic channels-through diplomatic representations and consular offices of the Republic of Armenia in foreign states, which, upon receipt of corresponding enquiries, shall submit them without delay to competent authorities provided for by this Part for submitting them to execution.
>
> 2. When the enquiry to carry out procedural steps is made by courts, prosecutors, investigators, inquest bodies of the Republic of Armenia, they, in

accordance with international treaties of the Republic of Armenia, shall submit the enquiries drawn up to the corresponding competent authority specified in part 1 of this Article for forwarding them to the competent authority of foreign state for the purpose of execution thereof.

After the competent authorities of a foreign state execute the enquiry of courts, prosecutors, investigators, inquest bodies of the Republic of Armenia and submit them to the competent authority provided for by part 1 of the Article, the latter shall immediately provide the court, prosecutor, investigator, inquest body of the Republic of Armenia which has drawn up the enquiry with the results of the execution.

...

5. Where the execution of an enquiry received from the competent body of a foreign state is impossible in accordance with international treaties of the Republic of Armenia or it does not arise from the international treaty concerned, the corresponding body of the foreign state shall notify about impossibility to execute the enquiry and the reasons thereof in the manner prescribed by this Article.

116. Article 478 (1) provides that all documents and other materials concerning the crime committed by the extradited person available in proceeding of courts, prosecutors, investigators, inquest bodies of the Republic of Armenia shall also be transferred to the competent authorities of the foreign State concerned in the manner prescribed by corresponding international treaty.

117. The above-mentioned legal relations are regulated by the European Convention on Mutual Assistance in Criminal Matters, as well as the bilateral treaties signed between the Police of the Republic of Armenia or the Ministry of Internal Affairs and the corresponding agencies of the following countries, including the United Arab Emirates, the Republic of Bulgaria, the Arab Republic of Egypt, the Republic of Belarus, the Republic of Estonia, Turkmenistan, the Republic of Italy, the Republic of Latvia, the Republic of Poland, the Republic of Lithuania, the Republic of Cyprus, the Republic of Greece, the Republic of Kazakhstan, the Republic of Kyrgyzstan, the Russian Federation, the Syrian Arab Republic, Georgia, the Republic of Tajikistan, the Republic of Uzbekistan and Ukraine.

Article 15

118. In accordance with article 15 of the Convention, "States Parties shall cooperate with each other and shall afford one another the greatest measure of mutual assistance with a view to assisting victims of enforced disappearance, and in searching for, locating and releasing disappeared persons and, in the event of death, in exhuming and identifying them and returning their remains."

119. The procedure for communication and legal assistance in criminal matters of the States Parties is defined by Chapter 54 of the Criminal Procedure Code of the Republic of Armenia. Article 474 particularly defines the procedure for provision of legal assistance in criminal matters in inter-state relations.

1. Conduct of interrogation, inspection, seizure, search, expert examination and other procedural steps provided for by this Code in the territory of a foreign state upon assignment or request (hereinafter referred to as "the enquiry") of courts, prosecutors, investigators, inquest bodies of the Republic of Armenia, as well as conduct of procedural steps provided for by this Code in the territory of the Republic of Armenia upon enquiry of competent authorities and officials (hereinafter referred to as "the competent authorities") of a foreign state, shall be carried out in

accordance with international treaties of the Republic of Armenia, in the manner prescribed by those treaties and this Code.

2. When carrying out procedural steps provided for by this Code in the territory of the Republic of Armenia upon enquiry of the competent authorities of a foreign state, courts, prosecutors, investigators, inquest bodies of the Republic of Armenia shall apply the norms of this Code with exceptions provided for by corresponding international treaties.

Pursuant to the requests of the competent authorities of a foreign state, the courts, prosecutors, investigators, inquest bodies of the Republic of Armenia, when carrying out procedural activities in the territory of the Republic of Armenia, may apply the rules of criminal procedure legislation of the corresponding foreign state, where application of the latter is envisaged by an international treaty in force to which the Republic of Armenia and the foreign state concerned are parties.

Enquiries of the competent authorities of foreign states shall be executed within the time limits provided for by the Criminal Procedure Code of the Republic of Armenia, unless another time limit is defined by corresponding international treaty.

120. Agreements on mutual assistance in criminal matters are in the planning stage with the Hashemite Kingdom of Jordan, India and the United States of Mexico.

Article 16

121. In accordance with article 16 of the Convention:

"1. No State Party shall expel, return ("refouler"), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights or of serious violations of international humanitarian law."

122. Article (16) (3) of the Criminal Code of the Republic of Armenia defines that foreign nationals and stateless persons located in the Republic of Armenia and having committed a crime outside of the territory of the Republic of Armenia shall not be extradited, if there are good reasons to believe that extradition has been requested for the inquest or punishment due to race, religion, membership of a certain national, social group or political opinion. No person shall be extradited to that foreign country where there is a serious risk that he or she may be subject to tortures or inhuman or degrading treatment or punishment.

Article 16. Extradition of persons having committed a crime

1. Nationals of the Republic of Armenia which have committed a crime in the territory of another country shall not be extradited to another foreign country, except for cases provided for by international treaties ratified by the Republic of Armenia.

2. In accordance with international treaties of the Republic of Armenia, foreign nationals and stateless persons having committed a crime outside the territory of the Republic of Armenia and being in the Republic of Armenia may be extradited to a foreign country for subjecting to criminal liability or serving the punishment.

3. Persons specified in part 2 of this Article shall not be extradited to a foreign country where there are good reasons to believe that extradition has been requested for inquest or punishment due to race, religion, membership of a certain national, social group or political opinion. No person shall be extradited to that foreign country where there is a serious risk that he or she may be subject to tortures or inhuman or degrading treatment or punishment.

4. Where, under the laws of the state requesting the extradition of the persons having committed a crime, such crime is punishable by death penalty, the extradition of the persons having committed the crime may be refused, unless the requesting party gives sufficient assurance that death penalty will not be executed.

5. In case of refusing to extradite a person having committed a crime, criminal prosecution for crimes committed in the territory of a foreign country is carried out in accordance with the legislation of the Republic of Armenia.

123. In accordance with article 475 of the Criminal Procedure Code of the Republic of Armenia, the Prosecutor General's Office of the Republic of Armenia in relation to executing enquiries regarding the execution of procedural steps for cases in pre-trial proceedings shall be competent authorities for showing legal assistance in criminal matters by international treaties of the Republic of Armenia, and the Ministry of Justice of the Republic of Armenia in relation to executing enquiries regarding the execution of procedural steps in cases in proceedings, including judgements.

Article 17

124. In accordance with article 17 of the Convention:

"1. No one shall be held in secret detention.

2. Without prejudice to other international obligations of the State Party with regard to the deprivation of liberty, each State Party shall, in its legislation:

(a) Establish the conditions under which orders of deprivation of liberty may be given;

(b) Indicate those authorities authorized to order the deprivation of liberty;

(c) Guarantee that any person deprived of liberty shall be held solely in officially recognized and supervised places of deprivation of liberty;

(d) Guarantee that any person deprived of liberty shall be authorized to communicate with and be visited by his or her family, counsel or any other person of his or her choice, subject only to the conditions established by law, or, if he or she is a foreigner, to communicate with his or her consular authorities, in accordance with applicable international law;

(e) Guarantee access by the competent and legally authorized authorities and institutions to the places where persons are deprived of liberty, if necessary with prior authorization from a judicial authority;

(f) Guarantee that any person deprived of liberty or, in the case of a suspected enforced disappearance, since the person deprived of liberty is not able to exercise this right, any persons with a legitimate interest, such as relatives of the person deprived of liberty, their representatives or their counsel, shall, in all circumstances, be entitled to take proceedings before a court, in order that the court

may decide without delay on the lawfulness of the deprivation of liberty and order the person's release if such deprivation of liberty is not lawful.

3. Each State Party shall assure the compilation and maintenance of one or more up-to-date official registers and/or records of persons deprived of liberty, which shall be made promptly available, upon request, to any judicial or other competent authority or institution authorized for that purpose by the law of the State Party concerned or any relevant international legal instrument to which the State concerned is a party. The information contained therein shall include, as a minimum:

(a) The identity of the person deprived of liberty;

(b) The date, time and place where the person was deprived of liberty and the identity of the authority that deprived the person of liberty;

(c) The authority that ordered the deprivation of liberty and the grounds for the deprivation of liberty;

(d) The authority responsible for supervising the deprivation of liberty;

(e) The place of deprivation of liberty, the date and time of admission to the place of deprivation of liberty and the authority responsible for the place of deprivation of liberty;

(f) Elements relating to the state of health of the person deprived of liberty;

(g) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the remains;

(h) The date and time of release or transfer to another place of detention, the destination and the authority responsible for the transfer."

125. The aforementioned matters are regulated by chapters 17 and 18, as well as article 63 of the Criminal Procedure Code of the Republic of Armenia.

126. The rights and obligations of the suspect are defined by article 63 of the Criminal Procedure Code of the Republic of Armenia, point 9 of part 2 of which particularly defines the following: "(9) through the body conducting criminal prosecution, inform – by telephone or through other possible means of communication – about the place of and the grounds for keeping him or her in custody to his close relatives, and in case of a conscript, to the command of the military unit, not later than within 12 hours immediately after taken into custody. When a foreign national or a stateless person is taken into custody, within 24 hours the body conducting criminal proceeding shall, through diplomatic channels, inform about the place of and the grounds for keeping him or her in custody to the country of citizenship, in case he or she is stateless, to the country of his or her permanent residence, and where necessary, to another country concerned, as well. Where a foreign national or a stateless person taken into custody is entitled to – by international treaties of the Republic of Armenia – contact with the respective representative of his or her country of citizenship or of the country of his or her permanent residence or with other representative competent to such a contact or is entitled to a visit by that representative, the request by the person taken into custody to exercise that right shall be satisfied.".

127. The grounds and procedure for arrest, as well as the officials with the competence to take a decision on arrest are defined by chapter 17 of the Criminal Procedure Code of the Republic of Armenia. Article 128 particularly defines the concept of arrest as:

1. Arrest shall be taking a person into custody to prevent committal of a crime by him or her or his or her escape after committal of the crime, taking him or her to inquest body or body conducting proceeding, drawing up a relevant protocol and

informing him or her thereon for the purpose of keeping him or her in a short-term custody in places and conditions defined by law.

2. Only the following persons may be arrested:

(1) A person, suspected in such a crime, for which a punishment in the form of service in disciplinary battalion, detention, deprivation of liberty for a certain period or life imprisonment may be imposed;

(2) An accused that has violated conditions of the measure of restraint.

3. Arrest shall be made:

(1) Based on immediate suspicion of committing a crime;

(2) Based on decision of criminal prosecution body.

128. The grounds for arrest are established by article 129:

1. A person suspected in committal of a crime may be arrested by an officer of inquest body, investigator, prosecutor when there is one of the following grounds:

(1) A person has been caught while committing an act proscribed by criminal statute or immediately after committing thereof;

(2) An eye-witness directly identifies the person concerned as the person committing the act proscribed by criminal statute;

(3) Obvious traces confirming connection of the person concerned to committal of an act proscribed by criminal statute are found on him or her or on his or her clothes, on other items used by him or her, by him or her or in his apartment or means of transport;

(4) There are other grounds to suspect in committal of a crime a person, who has made an attempt to flee from the scene of action or to hide from the body conducting criminal proceeding or does not have a permanent place of residence or resides in other area, or whose identity is not established.

2. Arrest made on the grounds provided for by part 1 of this article may not last more than 72 hours following the moment of taking into custody. A charge shall be brought against the person arrested on the grounds provided for by part 1 of this article within 72 hours following the moment of taking him or her into custody. A charge may not be brought against the suspect within the mentioned period when he or she is released from custody as a result of imposing on him or her a measure of restraint not related to keeping him or her under confinement or failure to impose a measure of restraint within 72 hours following the moment of taking him or her into custody.

129. Chapter 18 of the Code defines the grounds and procedure for the application of measures of restraint (particularly detention).

130. In addition, the principle of immunity of a person, according to which every person has the right to liberty and immunity is defined by article 11 of the Criminal Procedure Code of the Republic of Armenia, and no one can be taken into custody and kept under confinement with the grounds and procedure other than provided for by this Code.

131. In accordance with part 3 of the same article, detention. keeping under detention or forcible placement of a person in a medical or correctional institution shall be authorised only by court decision. A person may not be kept under confinement for more than 72 hours, unless the appropriate court decision is issued.

132. In accordance with part 4 of the same article, every arrestee and detainee shall be immediately informed about the grounds for the arrest or detention, as well as factual situation and legal qualification of the crime they are suspected in or charged with.

133. Article 150 of the Criminal Procedure Code of the Republic of Armenia defines the appeal against measures of restraint, and article 151 defines the changing or lifting of the measure of restraint:

> Article 150. Appealing measures of restraint
>
> 1. The suspect, the accused, their counsels and legal representatives, other interested participants of the proceedings may appeal the decision of the investigator and the investigative body on applying or changing a measure of restraint to the relevant prosecutor, and the decision of prosecutor may be appealed to a superior prosecutor.
>
> 2. The court decision on applying a measure of restraint in the course of pre-trial proceeding or rejecting thereof, or on extending the term of applying detention as a measure of restraint or rejecting thereof may be appealed to the Court of Appeal.
>
> Article 151. Changing and lifting a measure of restraint
>
> 1. If appropriate, the body conducting criminal proceeding may change the measure of restraint.
>
> 2. The measure of restraint shall be lifted when it is no longer needed.
>
> 3. The measure of restraint in the form of detention and bail imposed by court may be changed and lifted by the court, and in the course of pre-trial criminal proceeding, may be changed and lifted also by prosecutor. In the course of pre-trial criminal proceeding the measure of restraint in the form of bail imposed by court, upon consent of prosecutor, may be changed and lifted by investigator as well.
>
> 4. The body changing or lifting detention as a measure of restraint shall inform thereon the administration of detention facility the same day and shall forward them the copy of its relevant decision.

134. The penitentiary establishments and bodies of the Ministry of Justice of the Republic of Armenia regularly inspect the controlling prosecutors, the Penitentiary Department of the Ministry of Justice of the Republic of Armenia, the group of public observers implementing public control, the existing commission for the European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and more.

Article 18

135. In accordance with article 18 of the Convention:

> "1. Subject to Articles 19 and 20, each State Party shall guarantee to any person with a legitimate interest in this information, such as relatives of the person deprived of liberty, their representatives or their counsel, access to at least the following information:
>
> (a) The authority that ordered the deprivation of liberty;
>
> (b) The date, time and place where the person was deprived of liberty and the identity of the authority that deprived the person of liberty;
>
> (c) The authority responsible for supervising the deprivation of liberty;

(d) The whereabouts of the person deprived of liberty, including, in the event of a transfer to another place of deprivation of liberty, the destination and the authority responsible for the transfer;

(e) The date, time and place of release;

(f) Elements relating to the state of health of the person deprived of liberty;

(g) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the remains;

2. Appropriate measures shall be taken, where necessary, to protect the persons referred to in paragraph 1 of this Article, as well as persons participating in the investigation, from any ill-treatment, intimidation or sanction as a result of the search for information concerning a person deprived of liberty."

136. The aforementioned matters are regulated by article 63 (2) (9) of the Criminal Procedure Code of the Republic of Armenia: "through the body conducting criminal prosecution, inform – by telephone or through other possible means of communication – about the place of and the grounds for keeping him or her in custody to his close relatives, and in case of a conscript, to the command of the military unit, not later than within 12 hours immediately after taken into custody. When a foreign national or a stateless person is taken into custody, within 24 hours the body conducting criminal proceeding shall, through diplomatic channels, inform about the place of and the grounds for keeping him or her in custody to the country of citizenship, in case he or she is stateless, to the country of his permanent residence, and where necessary, to another country concerned, as well. Where a foreign national or a stateless person taken into custody is entitled to – by international treaties of the Republic of Armenia – contact with the respective representative of his country of citizenship or of the country of his permanent residence or with other representative competent to such a contact or is entitled to a visit by that representative, the request by the person taken into custody to exercise that right shall be satisfied" and by article 65, which presents the rights and obligations of the accused.

Article 65. Rights and obligations of the accused

1. The accused shall have the right to defence. The body conducting criminal proceeding shall provide the accused with the opportunity to exercise his or her right to defence through all the measures not prohibited by law.

2. The accused, in the manner prescribed by this Code, shall have the right to:

(1) Learn what he or she is charged with, and receive free of charge from the body conducting criminal prosecution the copy of the decision on involving him or her as an accused, immediately after the charge is produced, he or she is taken into custody or is announced of the decision of imposing a measure of restraint;

(2) Receive, immediately after taken into custody, from an inquest body, an investigator or a prosecutor a written notification on and clarification of his or her rights provided for by part 2 of this article;

(3) After the charge is produced, have a counsel, waive a counsel and conduct the defence by himself/herself;

(4) Meet his counsel in private, in confidence and in an unimpeded way with no limitation on the number and duration thereof;

...

(9) Through the body conducting criminal prosecution, inform about the place of and the grounds for keeping him or her in custody to his or her close relatives, and in case of a conscript, to the command of the military unit, not later than within 12 hours immediately after taken into custody.

When a foreign national or a stateless person is taken into custody, within 24 hours the body conducting criminal proceeding shall, through diplomatic channels, inform about the place of and the grounds for keeping him or her in custody to the country of citizenship, in case he or she is stateless, to the country of his permanent residence, and where necessary, to another country concerned, as well.

Where a foreign national or a stateless person taken into custody is entitled to – by international treaties of the Republic of Armenia – contact with the respective representative of his or her country of citizenship or of the country of his or her permanent residence or with other representative competent to such a contact or is entitled to a visit by that representative, the request by the person taken into custody to exercise that right shall be satisfied.

4. The accused shall be obliged to:

(1) Appear on the call of the body conducting criminal proceeding;

(2) When detained, be subject to personal search, upon the demand of the body conducting criminal proceeding;

...

(5) Follow the lawful orders of a prosecutor, an investigator, an inquest body and a judge;

137. Chapter 12 of the Criminal Procedure Code of the Republic of Armenia covers the protection of persons participating in criminal proceedings.

Article 98. Protection of persons participating in criminal proceedings

1. Each person participating in criminal proceedings that may communicate information essential for discovering the crime and detecting the person who has committed the crime, by reason of which life, health, property, rights and legitimate interests of the person, a member of his or her family, a close relative or a kinsman may be threatened, shall have the right to protection.

In this Chapter a kinsman shall be deemed to be the person for whose protection the person participating in criminal proceedings has filed a written application with the body conducting criminal proceeding.

2. The protection of the person participating in criminal proceedings, also of a member of his or her family, a close relative or a kinsman (hereinafter referred to as the protected in this Chapter) shall be exercised by the body conducting criminal proceeding.

3. Upon finding out that the person under protection needs protection, the body conducting the criminal proceedings shall, on the basis of the written application of that person or by own initiative, take a decision on undertaking a protective measure which is subject to immediate execution.

...

7. The administrator of the police holding facility, the detention facility or the correctional institution may refer to the body conducting criminal proceeding for the protection of respectively an arrested person, a detained person or a person serving

his or her punishment in the form of imprisonment, upon his or her initiative or based on the application of that person.

Article 98.1. Protective measures

(1) To warn officially the person who is expected to use violence or commit other crime against the protected;

(2) To protect the identification data of the protected;

(3) To ensure the personal security of the protected, to maintain his or her residence and other property;

(4) To provide the protected with individual protective measures and inform of the danger;

(5) To use technical means of supervision and to wiretap;

(6) To ensure the security of the protected to appear at the body conducting criminal proceeding;

(7) To imply such a measure of restraint against the suspect or the defendant, that will exclude the possibility of the use of violence by them or committal of other crime against the protected;

...

(9) To substitute identification documents of the protected or to alter the appearance;

138. The protection of the person to be protected by the procedure and the conditions provided for by international treaties of the Republic of Armenia may be carried out also in the territory of a foreign State.

Article 19

139. In accordance with article 19 of the Convention:

"1. Personal information, including medical and genetic data, which is collected and/or transmitted within the framework of the search for a disappeared person shall not be used or made available for purposes other than the search for the disappeared person. This is without prejudice to the use of such information in criminal proceedings relating to an offence of enforced disappearance or the exercise of the right to obtain reparation.

2. The collection, processing, use and storage of personal information, including medical and genetic data, shall not infringe or have the effect of infringing the human rights, fundamental freedoms or human dignity of an individual."

140. Respect for the rights, liberties and dignity of a person is provided for by article 9 of the Criminal Procedure Code of the Republic of Armenia as a principle of criminal procedure. All bodies and persons participating in criminal proceedings are required to respect the rights, liberties and dignity of the person.

141. In accordance with the RA Law "On Personal Data", personal data shall be gathered and processed legally. Personal data shall be gathered for clearly defined or announced legitimate purposes and may not be used for other purposes, except for cases defined by law. Gathering and processing of personal data, which are not necessary for achieving the goal of processing of the data, shall be prohibited. Personal data shall be stored as long as it

is required by the purpose for which they were processed, unless otherwise provided by law.

142. Article 6 of the RA Law "On Personal Data" defines the grounds for the legitimacy of processing of personal data, which are the following:

(1) Personal data shall be processed with the consent of the data subject;

(2) Processing of personal data shall be provided for by legislation, or shall directly stem from the law, or shall be necessary for the fulfilment of requirements of the law;

...

(4) Personal data shall be processed in order to protect the security of the nation and public from a direct threat.

143. The existing law shall not distinguish between the grounds and ways for processing of individual types of data. Simultaneously, article 10 of the Law defines that personal data in the possession of the processor shall be confidential information, except for cases defined by law. The processor shall be obliged to take corresponding measures to ensure the protection of databases containing personal data from accidental loss, illegal entry into databases and illegal use of data. The legal regime for personal data gathered during the activities of law-enforcement bodies shall be defined by law. Therefore, the relations connected to processing of data obtained during the criminal procedure shall be regulated within the framework of the Criminal Procedure Code of the Republic of Armenia.

144. It is also necessary to mention that the Police of the Republic of Armenia has placed into circulation the draft of the new RA Law "On protection of personal data", which will define the peculiarities for the processing of biometric personal data and personal data of special category, in accordance with international norms.

145. As for the maintenance of genetic databases, such databases shall not be maintained, in accordance with the existing information.

Article 20

146. In accordance with article 20 of the Convention:

> "1. Only where a person is under the protection of the law and the deprivation of liberty is subject to judicial control may the right to receive information referred to in Article 18 be restricted, on an exceptional basis, where strictly necessary and where provided for by law, and where the transmission of the information would adversely affect the privacy or safety of the person, hinder a criminal investigation, or for other equivalent reasons in accordance with the law, and in conformity with applicable international law and with the objectives of this Convention. In no case shall there be restrictions on the right to information referred to in article 18 that could constitute conduct defined in article 2 or be in violation of article 17, paragraph 1.
>
> 2. Without prejudice to consideration of the lawfulness of the deprivation of a person's liberty, States Parties shall guarantee to the persons referred to in article 18, paragraph 1, the right to a prompt and effective judicial remedy as a means of obtaining without delay the information referred to in article 18, paragraph 1. This right to a remedy may not be suspended or restricted in any circumstances".

147. Article 148 of the Criminal Code of the Republic of Armenia envisages criminal liability for illegal refusal by an official to provide a person with documents or materials

immediately concerning his rights and legitimate interests and collected in the prescribed manner or provision of incomplete or intentionally distorted information to a person where this caused harm to rights and legitimate interests of the person concerned.

148. A suspect and an accused shall have the right to defence. The body conducting criminal proceeding shall be obliged to explain a suspect and an accused their rights and to provide them with actual possibility to defend against a charge through all the measures not prohibited by law. A suspect and an accused shall have the right to defend against a charge either personally or by means of a defence counsel and a legal representative.

Article 21

149. In accordance with article 21 of the Convention: "Each State Party shall take the necessary measures to ensure that persons deprived of liberty are released under conditions permitting reliable verification that they have actually been released. Each State Party shall also take the necessary measures to assure the physical integrity of such persons and their ability to exercise fully their rights at the time of release, without prejudice to any obligations to which such persons may be subject under national law ".

150. Part 5 of article 11 of the Criminal Procedure Code of the Republic of Armenia prescribes that a court, as well as an inquest body, an investigator and a prosecutor shall be obliged to immediately release any person kept under unlawful confinement. The head of the administration of a detention facility shall not be authorised to receive a person to serve the detention without the corresponding court decision and shall be obliged to immediately release any person whose detention period has expired. The grounds and the procedure for release of arrested and detained persons, as well as entities having the competence to release are prescribed by articles 132 and 142 of the Criminal Procedure Code of the Republic of Armenia.

Article 132. Releasing an arrested person

1. An arrested person, shall, based on decision of the body conducting the proceeding, be subject to release, where:

(1) Suspicion on committal of an act proscribed by criminal statute by the person is not confirmed;

(2) There is no need to keep the person in custody;

(3) The maximum term of arrest defined by this Code has expired, and the court has not taken a decision on detention of an accused.

2. A suspect may be released also by the head of an inquest body in the case provided for by point 1 of part 1 of this Article. The head of administration of the policy holding facility shall release the suspect in the case provided for by point 3 of part 1 of this Article.

3. A person released from arrest may not be arrested again on the same suspicion.

Article 142. Releasing an accused from detention

1. An accused shall be subject to release from detention based on decision of the corresponding body conducting criminal proceeding where:

(1) Proceeding of the corresponding criminal case or criminal prosecution against him or her is terminated;

(2) A court has imposed a punishment on the convict not related to imprisonment, service in disciplinary battalion or detention;

(3) The body conducting criminal proceeding has found no need to keep the person in detention;

(4) The detention term defined by court when taking decision on detention has expired and is not extended;

(5) The maximum term of keeping a person in detention prescribed by this Code has expired;

(6) The bail set by court for release of the person from detention is posted.

2. In cases provided for by points 4-6 of part 1 of this Article a decision on release of a person from detention may be taken also by the head of administration of the detention facility.

3. In cases provided for by points 1 and 2 of part 1 of this Article correspondingly an acquitted person or a convict shall be released from detention by court directly from the courtroom. In cases provided for by points 4-6 of part 1 of this Article, as well as upon receipt of the copy of decision of body conducting criminal proceeding about lifting detention as a measure of restraint or changing thereof, the accused shall be immediately released by the head of administration of detention facility.

4. A person released from detention may not be detained again on the same charge unless new substantial circumstances are found, unknown to the body conducting proceeding when releasing the accused from detention.

Article 22

151. In accordance with article 22 of the Convention, "Without prejudice to article 6, each State Party shall take the necessary measures to prevent and impose sanctions for the following conduct:

(a) Delaying or obstructing the remedies referred to in article 17, paragraph 2 (f), and article 20, paragraph 2;

(b) Failure to record the deprivation of liberty of any person, or the recording of any information which the official responsible for the official register knew or should have known to be inaccurate;

(c) Refusal to provide information on the deprivation of liberty of a person, or the provision of inaccurate information, even though the legal requirements for providing such information have been met".

152. According to article 18 of the Constitution of the Republic of Armenia: "Everyone shall – for the protection of his or her rights and freedoms – have the right to effective judicial remedies, as well as effective legal remedies before other state bodies.".

153. A suspect and an accused shall have the right to defence. The body conducting criminal proceeding shall be obliged to explain a suspect and an accused their rights and to provide them with actual possibility to defend against a charge through all the measures not proscribed by law. A suspect and an accused shall have the right to defend against a charge either personally or by means of a defence counsel and a legal representative.

154. Immunity of a person is one of the principles of criminal procedure of the Republic of Armenia. In accordance with article 11 of the Code, everyone shall have the right to

freedom and immunity. No one may be taken into and kept under confinement on the grounds and in the manner other than provided for by the Criminal Procedure Code. Detention, keeping in detention or forcible placement of a person in a medical or educational institution shall be authorised only upon a court decision. A person may not be kept under confinement for more than 72 hours as a result of having been arrested, unless the corresponding court decision is issued.

155. The same article enshrines that every arrestee and detainee shall be immediately informed about the grounds for the arrest or detention, as well as about factual circumstances and legal qualification of the crime they are suspected of or charged with. A court, as well as an inquest body, an investigator and a prosecutor shall be obliged to immediately release any person kept under unlawful confinement. The head of the administration of a detention facility shall not be authorised to receive a person to serve the detention without the corresponding court decision and shall be obliged to immediately release any person whose detention period has expired.

156. Article 63 of the Criminal Procedure Code of the Republic of Armenia prescribes the rights of the suspect. In particular a suspect shall have the right to:

(1) Know of what he or she is suspected, be informed about content of the suspicion, the facts and legal qualification of the act he or she is incriminated in;

(2) Receive a written notice on his rights and a clarification from the inquest body, investigator or prosecutor immediately upon being arrested;

(3) Receive, after being arrested or informed of the decision on imposing a measure of restraint, from the inquest body —immediately and free of charge — the copy of the arrest warrant or the decision on imposing a measure of restraint issued by the criminal prosecution body, and after a protocol of arrest has been drawn up - the copy thereof;

(4) Appeal against the actions and the decisions of an inquest body, an investigator, a prosecutor and a court;

...

(6) Receive compensation of damage unlawfully caused as a result of actions of the body conducting criminal proceeding and so on.

157. The suspect also has the right to inform his or her close relatives – by telephone or through other possible means of communication, through the body conducting criminal prosecution – about the place of and the grounds for keeping him or her in custody no later than within 12 hours immediately after being taken into custody.

158. When a foreign national or a stateless person is taken into custody, the body conducting criminal proceeding shall, within 24 hours, through diplomatic channels, inform the country of citizenship of the person taken in custody, where he or she is a stateless person – the state of his permanent residence, and upon necessity – also another interested state, about the place of and the grounds for keeping him or her in custody.

159. An accused shall exercise rights of the same content in accordance with article 65 of the Code.

160. In accordance with article 32 of the Law of the Republic of Armenia "On Custody of Arrested and Detained Persons":

> "Any arrestee in a police holding facility and any detainee in a detention facility shall have the right to immediately inform a person of his or her own choice about that by any possible means of communication.

The administration of the police holding facility shall be obliged to immediately inform the person chosen by an arrested person about admission of the arrested person to the police holding facility or his or her transfer from one institution to another one, in the case of impossibility for the arrested person to exercise the right envisaged by part one of this Article.

The administration of the detention facility shall be obliged to inform in written a person, chosen by a detained person, about admission of the detained person to the detention facility or his or her transfer from one institution to another no later than within three days, in the case of impossibility for the detained person to exercise the right envisaged by part one of this Article.".

161. In accordance with part 4 of article 29 of the same Law: "An arrested person shall be registered in registers and individual records envisaged for that purpose immediately upon being transported to the police holding facility, and a detained person – to the detention facility. A personal file shall be maintained for each arrested or detained person, in which years and dates of admission and release from custody or detention shall be included in a mandatory manner".

162. As for liability envisaged for officials, measures of administrative and criminal influence are envisaged for them apart from the disciplinary liability for improper performance of their duties. In particular, article 189^7 of the Administrative Offences Code of the Republic of Armenia provides for liability for the failure to perform the duty of provision of information:

"Unlawful failure to provide information envisaged by law by officials of state and local self-government bodies, state institutions, government-financed institutions, as well as organisations of public significance entails imposition of a fine in the amount of ten-fold to fifty-fold of the minimum salary defined.

The same violation that has been committed repeatedly within a year upon imposition of measures of administrative penalty shall entail imposition of a fine in the amount of ten-fold to fifty-fold of the minimum salary defined."

163. Article 348 of the Criminal Code of the Republic of Armenia envisages criminal liability for unlawful arrest or detention:

"1. Obviously unlawful arrest – shall be punished by detention for a term of two to three months or by imprisonment for a term of maximum two years, with deprivation of the right to hold certain positions or to engage in certain activities for a term of maximum three years.

2. Obviously unlawful detention or obviously unlawful holding in detention – shall be punished by imprisonment for a term of maximum four years, with deprivation of the right to hold certain positions or to engage in certain activities for a term of maximum three years.

3. The acts provided for in part 1 or 2 of this Article, which have negligently caused grave consequences – shall be punished by imprisonment for a term of three to eight years, with deprivation of the right to hold certain positions or to engage in certain activities for a term of maximum three years".

164. The Criminal Code of the Republic of Armenia envisages liability for obstruction of exercise of powers of an advocate. In accordance with part 1 of article 332^3 – obstruction of exercise of powers of an advocate or a notary by an official shall be punished by a fine in the amount of two-hundred-fold to four-hundred-fold of the minimum salary, or by detention – for a term of one to three months.

165. Article 148 of the Criminal Code of the Republic of Armenia envisages that illegal refusal by an official to provide a person with documents or materials immediately concerning his rights and legitimate interests and collected in the prescribed manner or provision of incomplete or intentionally distorted information to a person where this caused harm to rights and legitimate interests of the person concerned, is a criminally punishable act. The mentioned act shall be punished by a fine in the amount of two-hundred-fold to four-hundred-fold of the minimum salary.

166. Besides, article 314 of the Criminal Code of the Republic of Armenia envisages liability for official forgery, according to which: "Entry of obviously false information or records into official documents, falsification, making scratches or other numeric inscriptions or modifications by an official for mercenary purposes or other personal or group interests, as well as drawing up and handover of false documents – shall be punished by a fine in the amount of two-hundred-fold to five-hundred-fold of the minimum salary or by imprisonment for a term of maximum four years, with deprivation of the right to hold certain positions or to engage in certain activities for a term of maximum three years.".

Article 23

167. In accordance with article 23 of the Convention:

> "1. Each State Party shall ensure that the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty includes the necessary education and information regarding the relevant provisions of this Convention, in order to:
>
> (a) Prevent the involvement of such officials in enforced disappearances;
>
> (b) Emphasize the importance of prevention and investigations in relation to enforced disappearances;
>
> (c) Ensure that the urgent need to resolve cases of enforced disappearance is recognized.
>
> 2. Each State Party shall ensure that orders or instructions prescribing, authorizing or encouraging enforced disappearance are prohibited. Each State Party shall guarantee that a person who refuses to obey such an order will not be punished.
>
> 3. Each State Party shall take the necessary measures to ensure that the persons referred to in paragraph1 of this article who have reason to believe that an enforced disappearance has occurred or is planned report the matter to their superiors and, where necessary, to the appropriate authorities or bodies vested with powers of review or remedy".

168. Provisions of the Convention are included in the national legislation of the Republic of Armenia, being regularly studied during training courses for employees of law-enforcement bodies.

169. Article 38 of the Law of the Republic of Armenia "On the Police" prescribes that if a police officer receives obviously illegal orders, commands and administrative orders contradicting the law from his or her supervisors (immediate or direct) or other authorised officials, the police officer shall be obliged to be guided solely by the requirements of the law, informing his or her superior thereof.

170. Article 47 of the Criminal Code of the Republic of Armenia prescribes liability for a person having committed a crime by an obviously illegal order.

Article 47. Execution of an order or administrative order

1. Causing harm to the interests protected under the criminal statute by a person who has acted in pursuance of an order or executive order binding thereon — issued in the manner prescribed shall not be deemed to be a crime. A person who issued an illegal order or administrative order shall be liable for such harm.

2. A person having committed an intentional crime upon obvious illegal order or administrative order shall be held liable on general grounds.

3. Non-execution of an obviously illegal order or executive order shall exclude criminal liability.

171. A person shall be subjected to criminal liability in case of failing to report a crime in preparation – in accordance with article 335 of the Criminal Code of the Republic of Armenia.

Article 335. Failure to report crime

1. Failure to report a grave or particularly grave crime in preparation, that is certainly known – shall be punished by a fine in the amount of three-hundred-fold to five-hundred-fold of the minimum salary or by detention for a term of one to three months or by imprisonment for a term of maximum two years.

2. Spouse and close relatives of the person having committed a crime shall not be subject to criminal liability for failure to report the crime.

Article 24

172. In accordance with article 24 of the Convention:

"1. For the purposes of this Convention, "victim" means the disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance.

2. Each victim has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person. Each State Party shall take appropriate measures in this regard.

3. Each State Party shall take all appropriate measures to search for, locate and release disappeared persons and, in the event of death, to locate, respect and return their remains.

4. Each State Party shall ensure in its legal system that the victims of enforced disappearance have the right to obtain reparation and prompt, fair and adequate compensation.

5. The right to obtain reparation referred to in paragraph 4 of this Article covers material and moral damages and, where appropriate, other forms of reparation such as:

(a) Restitution;

(b) Rehabilitation;

(c) Satisfaction, including restoration of dignity and reputation;

(d) Guarantees of non-repetition.

6. Without prejudice to the obligation to continue the investigation until the fate of the disappeared person has been clarified, each State Party shall take the appropriate steps with regard to the legal situation of disappeared persons whose fate has not been clarified and that of their relatives, in fields such as social welfare, financial matters, family law and property rights.

7. Each State Party shall guarantee the right to form and participate freely in organisations and associations concerned with attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons, and to assist victims of enforced disappearance."

173. Article 58 of the Criminal Procedure Code of the Republic of Armenia prescribes that a victim shall be declared the person to whom moral, physical or property damage has been directly caused by an act proscribed by the Criminal Code. A victim shall also be declared the person to whom moral, physical or property damage might be caused directly where an act proscribed by the Criminal Code was completed.

174. Decision on declaring a victim shall be taken by an inquest body, an investigator, a prosecutor or a court.

175. In accordance with article 80 of the Code, the legal successor of the victim shall be declared one of his or her close relatives, who has expressed a desire to exercise, in the criminal proceeding, the rights and fulfil the obligations of the late victim or the one that has lost ability to express his or her will. The decision on declaring a close relative of a victim as his legal successor shall be taken by an inquest body, an investigator, a prosecutor or a court, upon his request. The prosecutor or the court shall make the choice of the legal successor of the victim from among several close relatives that have applied with an appropriate request.

176. The legal successor of the victim shall participate in the criminal proceeding instead of the victim and shall have the rights and obligations of the latter, with the exception of the right and the obligation of giving testimonies and other inseparable rights and obligations of the victim.

177. Rights of the victim are provided for in article 59 of the Criminal Procedure Code of the Republic of Armenia, which also refers to the right of the victim to get acquainted with materials of the case, as well as the right to receive compensation:

"1. The victim, in the manner prescribed by this Code, shall have the right to:

(1) Get acquainted with the charge produced;

(2) Give testimonies;

(3) Give explanations;

(4) Submit materials to attach to the criminal case and to investigate;

(5) File recusal motions;

(6) File motions;

(7) Object to the actions of the bodies conducting criminal proceeding and demand that his or her objections are recorded in the protocol of the investigative operation or other procedural step;

(8) Get acquainted with protocols of investigative operations and other procedural steps he has participated in and submit remarks on the accuracy and completeness of the records made in the protocol; in case of participation in an investigative operation or other procedural step, in case of presence at the court hearing — require to make records in the protocol of the mentioned operation or in the

minutes of the court hearing of the circumstances that, as he believes, must be specified; get acquainted with the minutes of the court hearing and submit his or her remarks thereon;

(9) Get acquainted, upon the conclusion of the preliminary investigation, with all the materials of the case, take copies therefrom, excerpt from the case any information to any extent;

(10) Participate in the hearings of the Court of First Instance and Court of Cassation;

(11) Upon his or her request, receive free of charge copies of the decisions on the termination of a criminal case and criminal prosecution and on involvement as an accused, the copy of an indictment or a final decision, as well as the copy of a judgement or another final decision of a court;

(12) Appeal against activities and decisions of an inquest body, an investigator, a prosecutor, a court, including against the judgement and another final decision of a court;

(13) Reconcile with a suspect and an accused, in cases provided for by this Code;

(14) File objections to the appeals brought by other participants of the proceedings against the judgement or another final decision of a court;

(15) In the manner prescribed by law, receive compensation of the damage caused by an act proscribed by the Criminal Code;

(16) Receive reimbursement of costs incurred during the criminal proceeding;

(17) Regain the property and the originals of his or her official documents taken by the body conducting the criminal proceeding as material evidence or upon other grounds;

(18) Have a representative and terminate the powers thereof. ...".

178. The victim shall exercise his or her rights and discharge his or her obligations personally or through a representative, where this complies with the nature of the corresponding rights and obligations.

179. The right of the acquitted to compensation is prescribed by article 66 of the Criminal Procedure Code of the Republic of Armenia.

180. A number of articles of the Criminal Procedure Code of the Republic of Armenia enshrine the right of the victim or the acquitted, who has been subjected to unlawful coercive measures by the body conducting the criminal proceeding, to be compensated for material damage caused to him or her, in particular:

"Article 22. Reinstatement of rights of persons suffered from judicial mistakes

1. An acquitted person shall have the right to reinstatement of his or her rights, including to reparation of the material damage caused by the bodies conducting criminal proceeding.

2. Any person who has been unlawfully subjected to coercive measures by the body conducting criminal proceedings also has the right to compensation of pecuniary loss.

3. The bodies conducting criminal proceeding shall be obliged to implement all the measures, provided for by this Code, aimed at the reinstatement of the rights of an acquitted person".

181. Taking measures aimed at ensuring compensation of the damage caused by the crime is also classified among the powers of the inquest body enshrined by article 57.

182. Article 373 prescribes that the right of the acquitted person to compensation of damage caused by illegal arrest, involvement as accused, application of measures of restraint, unlawful bringing to trial as well as the procedure for exercise of this right shall be explained to him or her.

183. In accordance with article 1058 of the Civil Code of the Republic of Armenia the damage caused to the person or property of the citizen shall be subject to reparation in full by the person who caused it.

184. In accordance with article 1064 of the Civil Code of the Republic of Armenia, damage caused as a result of illegal conviction, holding criminally liable, imposing pre-trial detention or personal recognizance as a measure of restraint, or imposing an administrative sanction is fully compensated by the Republic of Armenia in the manner prescribed by law, irrespective of the fault of officials of inquest bodies, pre-trial investigation bodies, prosecutor's office or court.

185. The Civil Code of the Republic of Armenia also regulates the procedure and conditions of compensation of damage caused to the life or health, as well as to the honour and dignity of a citizen and restitution of his or her violated rights.

186. In accordance with article 13 of the Law of the Republic of Armenia "On organisation of funerals and operation of cemeteries and crematoria", the persons, who organise a funeral, shall be deemed to be the ones who assume responsibility for organisation of the funeral — on a voluntary basis. Where the kindred, relatives and other persons refuse to organise the funeral or, in their absence, the head of the community, where the late person last resided on a permanent basis, when he or she died, shall assume responsibility for organisation of the funeral. Meanwhile, the funeral of late citizens, who do not have anyone, who assumed responsibility for organisation of their funeral, shall be carried out within a period of three days upon identification of the late person and recording circumstances of his or her death by police bodies of the Republic of Armenia. The mentioned law also envisages provision of monetary assistance for partial reimbursement of organisational costs of funeral of a member of family having the right to a poverty family allowance. In accordance with the law the body (corpse) of the late person may be reburied in the manner prescribed by the Government of the Republic of Armenia based on desire of the kindred of the late person.

187. As for the establishment of unions, related to the issue of enforced disappearances, by victims, it is necessary to mention that article 28 of the Constitution of the Republic of Armenia enshrines that everyone shall have the right to form associations with other persons, including the right to form and join trade unions.

188. The mentioned public associations may also participate in the process of elaboration of national legislation. So, in accordance with article 27 of the Law of the Republic of Armenia "On Legal Acts", legal and natural persons shall have the right to elaborate, at their initiative, drafts of regulatory legal acts and submit them to corresponding law-making bodies.

Article 25

189. In accordance with article 25 of the Convention:

"1. Each State Party shall take the necessary measures to prevent and punish under its criminal law:

(a) The wrongful removal of children who are subjected to enforced disappearance, children whose father, mother or legal guardian is subjected to enforced disappearance or children born during the captivity of a mother subjected to enforced disappearance;

(b) The falsification, concealment or destruction of documents attesting to the true identity of the children referred to in subparagraph (a) above.

2. Each State Party shall take the necessary measures to search for and identify the children referred to in paragraph 1 (a) of this article and to return them to their families of origin, in accordance with legal procedures and applicable international agreements.

3. States Parties shall assist one another in searching for, identifying and locating the children referred to in paragraph 1 (a) of this article.

4. Given the need to protect the best interests of the children referred to in paragraph 1 (a) of this article and their right to preserve, or to have re-established, their identity, including their nationality, name and family relations as recognised by law, States Parties which recognize a system of adoption or other form of placement of children shall have legal procedures in place to review the adoption or placement procedure, and, where appropriate, to annul any adoption or placement of children that originated in an enforced disappearance.

5. In all cases, and in particular in all matters relating to this article, the best interests of the child shall be a primary consideration, and a child who is capable of forming his or her own views shall have the right to express those views freely, the views of the child being given due weight in accordance with the age and maturity of the child".

190. The Republic of Armenia acceded to the Convention on the Rights of the Child on 1 June 1992. The Law of the Republic of Armenia "On the rights of the child" was adopted in 1996.

191. Chapter 20 of the Criminal Code of the Republic of Armenia envisages liability for the crimes against family and child interests, in particular:

Article 167. Unlawfully separating a child from parents, or replacing a child.

1. Separating a child from his or her parents without their consent, with the exception of cases provided for by law, or replacing a child, where there are no elements of crime provided for by Article 132.2 of this Code – shall be punished by a fine in the amount of one-hundred-fold to two-hundred-and-fifty-fold of the minimum salary, or by imprisonment for a term of maximum five years.

2. The same actions committed:

(1) Against two or more children;

(2) By a group of persons acting in conspiracy;

(3) By use of official position;

(4) By illegally transporting a child to another State – shall be punished by imprisonment for a term of three to eight years.

3. The actions provided for in part 1 or 2 of this Article, which have been committed by an organised group, or have negligently caused the death of a child or other grave consequences – shall be punished by imprisonment for a term of five to ten years.

Article 168. Purchase of a child with the purpose of assuming guardianship or selling of the child with the purpose of placing him or her under guardianship

1. Purchase of a child with the purpose of assuming guardianship or selling of the child with the purpose of placing him or her under guardianship – shall be punished by imprisonment for a term of two to five years.

2. The same act committed:

(1) By use of official position;

(2) Against two or more children;

(3) By organising the transportation of a person by means of crossing of the state border of the Republic of Armenia;

(4) Through sham adoption – shall be punished by imprisonment for a term of four to eight years with or without deprivation of the right to hold certain positions or to engage in certain activities for a maximum term of three years.

192. Articles 324 and 325 of the Criminal Code of the Republic of Armenia envisage liability for damaging and forgery of documents.

Article 324. Unlawful taking of or damaging documents, stamps, seals

1. Unlawful taking of the passport or identification card or other important document of a citizen – shall be punished by a fine in the amount of two-hundred-fold to four-hundred-fold of the minimum salary or by detention for a term of maximum two months or by imprisonment for a term of maximum one year.

2. Unlawful taking, destruction, damaging or hiding of official documents, stamps or seals, committed with mercenary motives or other personal interests – shall be punished by a fine in the amount of three-hundred-fold to five-hundred-fold of the minimum salary or by detention for a term of one to three months or by imprisonment for a term of maximum two years.

Article 325. Forgery, sales or use of documents, stamps, seals, forms, state registration plates of means of transport

1. Forgery of an identification card or another official document which vests rights or releases from liability, for the purpose of use or sales thereof by the forger personally or by another person, or sales of such document or preparation or sales of fake seals, stamps, forms, state registration plates of means of transport for the same purposes, as well as use of obviously false documents – shall be punished by a fine in the amount of two-hundred-fold to four-hundred-fold of the minimum salary or by imprisonment for a term of maximum two years.

2. The acts provided for in part 1 of this Article, committed by a group of persons acting in a conspiracy – shall be punished by a fine in the amount of four-hundred-fold to eight-hundred-fold of the minimum salary or by imprisonment for a term of maximum four years.

193. Chapter 29.1 of the Civil Procedure Code of the Republic of Armenia prescribes the proceedings on adoption of a child, and article 173.5 thereof prescribes:

> "Examination and settlement of cases on annulment of an adoption shall be carried out by rules of adversary proceedings".